**Definitions**

These terms appear as they are defined in Misericordia University's Sexual Misconduct & Title IX Sexual Harassment Policy, referred to herein as “the policy”.

**Advisor** - An individual who provides support, guidance, and/or assistance to the complainant or responding party throughout the University Sexual Misconduct Complaint Resolution Process and/or the Title IX Grievance Process. Complainants and respondents have the right to select an advisor of their choice. Advisors may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them who is both eligible and available. Advisors are required during the Title IX hearing process. If a party does not have an advisor present at the Title IX hearing process, Misericordia University will provide the party with an advisor.

**Complaint** - A document that initiates the University Sexual Misconduct Complaint Resolution Process, as outlined in Section VI.4. of the policy, against a respondent alleging sexual misconduct. For moreinformation about how to file a complaint, see Section VI.4. of the policy.

**Education Program or Activity** - All of the operations of Misericordia University, which may be on or offcampus, as well as locations, events, or circumstances over which the University exercises substantial control over both the respondent and the context in which an incident of sexual harassment occurs.Misericordia University's education program or activity also extends to operations which include computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the University.

**Formal Complaint** - A document that initiates the grievance process outlined in the policy against a respondent alleging Title IX sexual harassment. A formal complaint must be filed by the complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that Misericordia University investigate the allegation of sexual harassment. At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in an education program or activity at Misericordia University. A formal complaint may be a document or electronic submission sent via email that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the complaint. Submission of a formal complaint to Misericordia University is not equivalent to filing charges with law enforcement and does not require a complainant to file charges with law enforcement.

**Report** - Notice, either written or oral, provided to the Title IX Coordinator of an alleged incident of sexdiscrimination, sexual harassment, or sexual misconduct. Any person, regardless of whether or not the person reporting the alleged incident is the person alleged to be the victim the incident may report sex discrimination, sexual misconduct or sexual harassment. Reports may be made at any time, including during non-business hours, in person, by mail to the office address listed for the Title IX Coordinator, by telephone, by email, or any other means that result in the Title IX Coordinator receiving a person's written or verbal report. Individuals may also complete and submit the University's online Incident Reporting Form, which can be found at:https://cm.maxient.com/reportingform.php?MisericordiaUniv&layout\_id=3A report is distinguished from a formal complaint or complaint as defined above.

**Respondent** - An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or sexual misconduct.

**Responsible Employees** - Employees who have been given the duty of reporting incidents of sexdiscrimination, sexual misconduct, and sexual harassment by members of the University community(students, staff, faculty, guests, visitors) to the Title IX Coordinator or other appropriate University designees, or whom a reporting party could reasonably believe have this authority or duty. Responsible Employees who receive information or a report about any act that potentially constitutes sexual misconduct or sexual harassment must further report that information to the Title IX Coordinator.

The following employees of the University are Responsible Employees:• President, Vice Presidents, Deans, Assistant and Associate Vice Presidents, and Department Chairs andindividuals who directly report to any of these roles• Faculty• Athletic Director, Coaches, Assistant Coaches, Graduate Assistants and other Athletics Departmentemployees• All Residence Directors, Resident Advisors, Area Coordinators and Community Living Assistants• Anyone who directly supervises students, student workers, faculty or other staff• Managers, coordinators, program heads, directors (including assistant or associate positions)• All staff in Enrollment Management and Student Life• Academic Advisors, and all staff in the Student Success Center• All staff in the Human Resources Department• Campus Safety & Security Department Staff and Facilities staff• Individuals designated as Campus Security Authorities under the Clery ActIn addition, Responsible Employees are expected to make every effort to explain their duty to report toanyone disclosing, or about to disclose, information to them.

**Preponderance of Evidence** - The standard of evidence used to determine if a Title IX policy violationoccurred. Misericordia University uses a "preponderance of evidence" standard, which means that theevidence demonstrated in the grievance process demonstrates that it is more likely than not that the alleged conduct or policy violation occurred.

**Sexual Assault Response Team (SART)** - Trained professionals from the Misericordia community that assist individuals who are dealing with recent or past experiences or who are supporting their friends, family or loved ones who are dealing with sexual misconduct of any kind.

**Supportive Measures** - Non-disciplinary, non-punitive individualized services offered as appropriate, asreasonably available, and without fee or charge to the complainant or respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to Misericordia University's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter sexual misconduct or sexual harassment. For more information about Supportive Measures, see to Section IV.4. of the policy.

**Consent**: A knowing and voluntary agreement to engage in specific sexual activity at the time of the activity. In order to be valid, consent must be knowing, voluntary, active, present and ongoing. Consent is not present when an individual is incapacitated due to alcohol, drugs, or sleep, or otherwise without capacity to provide consent due to intellectual or other disability or other condition.

**Sexual Assault:** Forcible or non-forcible sex offenses under the FBI's Uniform Crime Reporting program(U.C.R.). Various forms of sexual assault include:

**Sex Offenses, Forcible:** Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

**Forcible Rape:** (Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against thatperson's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

**Forcible Sodomy:** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**Sexual Assault with an Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**Forcible Fondling:** The touching of the private body parts of another person for the purpose of sexualgratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**Sex Offenses, Nonforcible:** (Except Prostitution Offenses) Unlawful, nonforcible sexual intercourse.

**Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent. In Pennsylvania, the age of consent is 16.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors:A. The length of the relationshipB. The type of relationshipC. The frequency of interaction between the persons involved in the relationship

**Domestic Violence**: Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. 34 U.S.C. 12291 (a)(8)

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonableperson to fear for his or her safety or the safety of others or suffer substantial emotional distress.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Stalking not of a sexual nature will be dealt with through the university's customary procedures.Examples of stalking include:• Unwelcome and repeated visual or physical proximity to a person;• Repeated oral or written threats;• Extortion of money or valuables;• Unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on on-line bulletin boards;• Unwelcome/unsolicited communications about a person, their family, friends, or co-workers; or• Sending/posting unwelcome and/or unsolicited messages with another username;• Implicitly threatening physical conduct or any combination of these behaviors directed toward anindividual person.

Sexual assault, which includes rape, is referenced in Paragraph 3 (in the policy) of the definitions of sexual harassment. Note that any report of sexual assault, dating violence, domestic violence, or stalking is not subject to the Davis Standard elements referenced in Paragraph 2(in the policy) of definitions of sexual harassment, which consider whether the incident was "severe, pervasive, and objectively offensive." A single act of sexual assault, dating violence, domestic violence, or stalking does not need to demonstrate severity, pervasiveness, objective offensiveness, or denial of equal access to education because denial of equal access is assumed. Therefore, complainants can feel confident reporting such incidents to the University and receive supportive measures without wondering whether sexual assault is 'bad enough' to report.

Misericordia University is required under Federal Title IX regulations to respond to incidents of sexualharassment as stated in the policy. Additionally, conduct outlined in the policy, in the definitions of sexual harassment and sexual misconduct may be considered a violation of Pennsylvania law and subject to mandatory reporting and/or criminal investigation.