

SEX DISCRIMINATION AND SEXUAL HARRASSMENT POLICY¹

I. Policy Statement.

Morthland College is committed to maintaining a community free of sexual harassment and discrimination, and will not tolerate sex discrimination or sexual harassment of any kind. This policy was developed to prevent such conduct from occurring, to ensure that survivors have access to prompt and comprehensive resources, and to address Morthland College's responsibilities pursuant to Title IX of the Education Amendments Act of 1972 and Title VI of the Civil Rights Act of 1964.

Title IX states that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

As a recipient of Federal financial assistance, Morthland College does not exclude, deny benefits to, or otherwise discriminate against any person on the basis of sex, gender, gender identity, gender expression, or sexual preference in admission to, participation in, or receipt of the services and benefits under any of its programs and activities, whether carried out by Morthland College directly or through a contractor or any other entity with any involvement in the programs or activities of Morthland College.

II. Scope of Policy.

This policy applies to all students, faculty, staff, board members, administrators, directors, vendors, visitors and persons conducting business with Morthland College ("Morthland College Community Members"). This policy applies to all conduct that interferes with the educational or working environment of Morthland College's students, faculty, or staff, regardless of whether the conduct occurs on or off campus. Sex discrimination and sexual harassment of any kind are absolutely prohibited.

All incidents involving sexual misconduct and sexual violence are set forth in and governed exclusively by Morthland College's Sexual Misconduct and Sexual Violence Policy.

III. Definitions of Terms Used in this Policy.

"Morthland College Community Members" means all students, faculty, staff, board members, administrators, directors, vendors, visitors and persons conducting business with Morthland College.

"Complainant" means a Morthland College Community Member who files a complaint alleging violation of this Sex Discrimination and Sexual Harassment Policy.

¹ The complaint and appeal procedures set forth in this policy are adopted from and are in most respects identical to the Southern Illinois University Edwardsville Sexual Harassment Complaint Procedures.

“Respondent” means a Morthland College Community Member who has been accused by a complainant of violating this Sex Discrimination and Sexual Harassment Policy.

“Sex discrimination” means to exclude, deny benefits to, or otherwise discriminate against any person on the basis of sex, gender, gender identity, or sexual orientation. Sexual harassment, sexual misconduct, and sexual violence are all forms of sex discrimination.

“Sexual harassment” means “[u]nwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature,” and includes, but is not limited to unwanted sexual looks or gestures, staring, unwanted correspondence, unwanted sexual teasing, remarks, jokes, inappropriate pet names, whistling, kissing sounds, sexual innuendos, physical contact or requesting physical contact of any kind, or unnaturally close interaction. [29 C.F.R. 1604.11]

“Sexual misconduct” means, but is not limited to, sexual assault, stalking, dating violence, and domestic violence.

"Sexual violence" means physical sexual acts attempted or perpetrated against a person's will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. [110 ILCS 155/5]

IV. Sex Discrimination/Sexual Harassment Information Advisors.

Morthland College has designated a number of individuals to serve as information advisors on the subject of sex discrimination and sexual harassment. Sex discrimination/sexual harassment information advisors are individuals familiar with this Sex Discrimination and Sexual Harassment Policy and who can assist those who have concerns regarding sex discrimination or sexual harassment. Complainants, respondents, witnesses, or supervisors of parties to a complaint may consult sex discrimination/sexual harassment information advisors. Such consultation does not constitute a formal complaint or grievance. Sex discrimination/sexual harassment information advisors can provide information regarding:

- informal actions that might remedy the situation;
- Morthland College’s policy on sex discrimination and sexual harassment and procedures for resolving complaints; and
- applicable state and federal laws including procedures to file charges with state and federal agencies, and law enforcement, if applicable.

Department chairs will recommend individuals to serve as sex discrimination/sexual harassment advisors. Advisors will be selected by the Title IX Coordinator on the basis of ability to maintain objectivity and confidentiality and to attend training. Sex discrimination/sexual harassment advisors should include members from all employee groups, faculty, staff and civil service and will be representative of gender and racial diversity. There will be at least five sex discrimination/sexual harassment advisors. Advisors and contact information are listed at Appendix A.

V. Reporting Violations.

All individuals who experience or witness an incident of sex discrimination or sexual harassment involving a Morthland College Community Member, whether on or off campus, are strongly encouraged to report the incident as soon as possible. A violation may be reported at any time after it occurs, but Morthland College may have limited options to take action against a respondent who is no longer a Morthland College Community Member.

A. *How Reported.* Reports of incidents of sex discrimination and sexual harassment, or retaliation for reporting sex discrimination or sexual harassment, should be made to Morthland College's Title IX Coordinator, who is responsible for initial assessment of all reports of sex discrimination and sexual harassment. Reports may be made by telephone, fax, mail, electronically or in person.

Morthland College's Title IX Coordinator is:

Name
Title
Address
Telephone
Fax
Email

All complainants will be provided with information about available resources, accommodations, remedies, advisers, advocates, and options for proceeding with investigation. If a complainant requests that no formal action be taken or requests to remain anonymous during investigation and resolution of the report, Morthland College will comply with the complainant's request to the greatest extent practicable. Morthland College may be prevented from complying with a complainant's request for anonymity by law. Morthland College may also proceed with an investigation against a complainant's wishes in order to satisfy legal requirements or its commitment to provide a safe and non-discriminatory environment for all Morthland College Community Members.

B. *Investigation of Report.* Students and employees who wish for an investigation of a report of an alleged incident of sex discrimination or sexual harassment must complete the "Title IX Complaint Form" included with this policy in Appendix B. The Title IX Coordinator may also proceed with investigation of a report without a complainant's consent as allowed by this policy and as required by law. The Title IX Coordinator will be responsible for initial assessment of the report, coordinating initiation of the investigation, and making referrals as necessary to ensure the conduct is stopped, does not occur again, and the effects of the conduct are addressed. The Title IX Coordinator, or individual appointed by the Title IX Coordinator, shall:

1. Within three (3) working days of receiving a complaint,
 - a. Meet with the complainant to obtain details of the allegations and make a written record of the complaint. The written record should include the name of the complainant, the name of the respondent, a factual description of the incident(s) (including dates,

times, places, and the names of any witnesses), and the remedy sought by the complainant.

- b. Advise the complainant of the necessity of maintaining confidentiality to the extent possible throughout the investigation process.
- c. Advise the complainant of his or her right to not have past sexual history discussed during the proceedings.
- d. Inform the complainant of his or her right to have a person of their choice, including an attorney, accompany them throughout the proceedings. However, the complainant is responsible for participating in the investigation process; any person chosen by the complainant to accompany him or her through the process may not speak or directly participate in the investigation, except to the extent that the person may be a witness.
- e. Advise the complainant that retaliation for having made a complaint of sex discrimination or sexual harassment is strictly forbidden by Morthland College policy.
- f. Inform the complainant of the temporary measures that may be available until the complaint is resolved.
- g. Advise the complainant of his or her right to present witnesses who have direct knowledge of the complaint.

2. Within five (5) working days of receipt of a complaint:

- a. Meet with the respondent to notify him or her of the specific allegations.
- b. Advise the respondent of due process options available.
- c. Advise the respondent of the necessity of maintaining confidentiality to the extent possible throughout the investigation process.
- d. Inform the respondent of his or her right to have a person of their choice, including an attorney, accompany them throughout the proceedings. However, the respondent is responsible for participating in the investigation process; any person chosen by the respondent to accompany him or her through the process may not speak or directly participate in the investigation, except to the extent that the person may be a witness.
- e. Advise the respondent that retaliation against a complainant for having made a complaint of sex discrimination or sexual harassment is strictly forbidden by Morthland College policy.
- f. Allow the respondent five (5) working days to respond to the allegations.
- g. Advise the respondent of his or her right to present witnesses who have direct knowledge of the complaint.
- h. In the event the respondent is an employee, notify the respondent's supervisor of the complaint, if applicable. In the case of faculty, the chairperson and the dean will be notified. In the case of other employees, the supervisor and the unit head will be notified.
- i. In the event the respondent is a student, the Dean of Student Affairs will be notified and if the student is a student worker at Morthland College, the appropriate supervisor will receive notification.
- j. Inform the appropriate Department Chair.

3. Interview witnesses and any other appropriate individuals to fully investigate the allegations of the complaint.

4. At all stages of this process, assess whether a resolution is possible and attempt to resolve the complaint in the least disruptive, prompt and confidential manner. This ongoing assessment will include a consideration of whether mediation [Mediation is a process where the parties in disagreement resolve their differences by agreement with the assistance of an impartial mediator who facilitates a resolution in a private and confidential setting] could be beneficial and, determine whether mediation could successfully resolve the complaint. If so, complainant and respondent will be offered the opportunity to mediate. Mediation will not be offered in cases alleging any form of sexual misconduct or sexual violence.

5. Assess whether interim measures are appropriate and make a recommendation for implementation of such measures to the appropriate Morthland College personnel.

6. The complainant and the respondent will have opportunities to present information, rebut evidence and present witnesses.

7. Within thirty (30) working days of receipt of a complaint, determine whether the Sex Discrimination and Sexual Harassment Policy has been violated, make a written report of findings and conclusions, and notify the complainant and respondent of the results of the investigation.

8. In cases where the respondent is an employee, notify the respondent's supervisor that the investigation is complete, and if a violation has occurred, make recommendations for appropriate discipline according to Section IX of this policy. Those who were originally notified of the complaint will receive a copy of the written report.

9. In cases where the respondent is a student and there is a finding that the Sex Discrimination and Sexual Harassment Policy was violated, within thirty (30) working days of receipt of a complaint, notify the Dean of Student Affairs that a violation has occurred and make a recommendation for appropriate discipline according to Section IX of this policy. Those who were originally notified of the complaint will receive a copy of the written report.

10. Provide notice that between the time the written report is given to the appropriate supervisor/Dean and when discipline is imposed, there shall be no *ex parte* communications between the supervisor/Dean and any of the parties or witnesses to the complaint. After discipline is imposed, the complainant and the respondent shall receive a copy of the written report.

Within five (5) working days of notification of the results of the investigation, either the complainant or respondent may notify the investigator of his or her wish to appeal the determination as to whether the Sex Discrimination and Sexual Harassment Policy was violated. Where the appealing party is the respondent, he or she shall indicate whether he or she will appeal to the Sex Discrimination and Sexual Harassment Panel, or through any applicable civil service procedures, collective bargaining or student conduct codes. This choice by the respondent will constitute respondent's exclusive avenue of appeal. Where the respondent elects civil service, collective bargaining or student conduct code procedures, the investigator shall forward the report to appropriate personnel pursuant to the applicable procedure. Where the

complainant appeals or the respondent elects to appeal to the Sex Discrimination and Sexual Harassment Panel, within three (3) working days of receipt of the notice of appeal, the investigator shall initiate the appeal process.

VI. Appeal to the Sex Discrimination and Sexual Harassment Panel.

Upon Appeal by either respondent or complainant, the Sex Discrimination and Sexual Harassment Panel shall review the investigation appealed from to determine whether or not the Sex Discrimination and Sexual Harassment Policy was violated.

A. *Composition and Selection of Panel.* There shall be a Sex Discrimination and Sexual Harassment Panel Pool composed of two representatives from each of the five functional areas governed by the Department Chairs. Department Chairs will recommend candidates for the Pool to the Title IX Coordinator, who will forward the recommendations to the President. The ten members of the Pool will be approved by the President on the basis of ability to maintain objectivity and confidentiality, and to attend training. The Sex Discrimination and Sexual Harassment Panel Pool shall include representatives from faculty, professional staff, and civil service and shall include both males and females and represent additional diversity. A Sex Discrimination and Sexual Harassment Panel composed of three members of the Sexual Harassment Panel Pool shall be selected by the original investigator within three (3) working days of receipt of the notice of appeal, taking into account such factors as the nature of the complaint, the prior experience and availability of the eligible members of the Pool, and equitable gender representation on the Panel. None of the three panel members shall be drawn from the same department of study or other reporting area as either the complainant or the respondent. Each member of the Panel will be provided with a copy of the original investigator's report.

B. *Procedures for Appeal.* The Sex Discrimination and Sexual Harassment Panel will proceed as follows:

1. Within seven (7) working days of receipt of the report from the original investigator, convene to review and discuss the report and schedule a date for a hearing.
2. Within seven (7) working days of receipt of the report from the original investigator, advise the complainant and respondent of the date of the hearing and their right to have an advisor of their choice, including an attorney, present throughout the hearings. However, complainant and respondent are responsible for presenting their own cases; an advisor may not speak or participate directly in any hearing, except to the extent that the person may be a witness.
3. Within ten (10) working days of receipt of the report, schedule a hearing to allow the complainant and respondent the opportunity to present information, rebut evidence, and present witnesses.
4. Allow the complainant and the respondent to remain present during the entire hearing.

5. Within ten (10) working days of the conclusion of the hearing, determine whether the Sex Discrimination and Sexual Harassment Policy has been violated and prepare a written report of the Panel's findings, conclusions and any recommendations for sanctions.

6. Within ten (10) working days of the conclusion of the hearing, forward a copy of the Panel's report to the complainant, respondent, and the original investigator.

7. If the Panel makes a finding that the Sex Discrimination and Sexual Harassment Policy was violated, the original investigator will forward a copy of the Panel's report, including recommendations for sanctions, to the appropriate Morthland College personnel for implementation.

8. Within ten (10) working days of receipt of the Panel's report and recommendations, the appropriate Morthland College personnel will impose sanctions as deemed appropriate.

VII. Appeal from Sex Discrimination and Sexual Harassment Panel Findings.

Within five (5) working days of receipt of the Sex Discrimination and Sexual Harassment Panel's report, either the respondent or complainant may provide written notice of appeal to the Office of the President. The President will review the record and either uphold or reverse the decision being appealed within ten (10) working days of receipt of the appeal. A complainant may also seek relief through the Equal Employment Opportunity Commission, (1222 Spruce, Room 8.100, St. Louis, MO 63103); the U.S. Department of Education, Office for Civil Rights - Chicago Office (500 W. Madison Street, Suite 1475, Chicago, IL 60661); the State of Illinois Department of Human Rights (222 South College, Floor 1, Springfield, IL 62704); and the courts.

VIII. Available Measures During Investigation and Appeal.

A complainant may request protective measures during the investigation and/or appeal of a report of alleged sex discrimination or sexual harassment. All respondents will be afforded notice and a hearing prior to imposition of any measures against a respondent, unless deprivation of a respondent's due process rights is legally permissible due to an immediate threat to health, safety or welfare. The following measures may be applied to the complainant or respondent:

- Coordination of access to on-campus or off-campus counseling services;
- An order that the respondent have no contact with the complainant while on-campus;
- Modification of coursework;
- Change in class schedule;
- Withdrawal from a course without penalty;
- Change in job assignment or schedule;
- Change in housing;
- Limits on access to Morthland College facilities or activities;
- Voluntary leave of absence;
- Involuntary leave of absence or suspension;
- Academic support services;

- Any other measure the Title IX Coordinator deems compatible with the spirit and intent of this policy.

IX. Sanctions for Violation.

A. *Employees and Other Individuals.* If there is a finding of sex discrimination or sexual harassment against a Morthland College employee or another individual, Morthland College may impose sanctions including, but not limited to:

1. Apology to the complainant;
2. Advice and counseling;
3. Required attendance at sex discrimination and/or sexual harassment training;
4. Written warning;
5. Letter of reprimand;
6. Removal of sexually explicit material;
7. Required attendance at substance abuse training, if substance abuse was involved;
8. Loss of travel dollars;
9. Loss of choice assignments;
10. Change of job or class assignment;
11. Suspension, probation, termination; and
12. Loss of access to Morthland College.

B. *Students.* If there is a finding of sex discrimination or sexual harassment against a student or student organization, Morthland College may impose sanctions including, but not limited to:

1. Apology to the complainant;
2. Written warning;
3. Letter of reprimand;
4. Removal of sexually explicit material;
5. Prohibiting students from holding office or participating in activities such as sports events for a specified time;
6. Transferring the student to another class or job;
7. Disbanding or suspending a social organization or other student group involved in sex discrimination or sexual harassment;
8. Transferring students to different housing or prohibiting them from living in institutional housing facilities;
9. Requiring attendance at substance abuse training, if substance abuse was involved;
10. Requiring relevant community service;
11. Requiring perpetrators to attend workshops on peer discrimination and/or harassment;
12. Loss of student worker position or internship; and
13. Suspension, probation, dismissal or expulsion.

X. Retaliation

Retaliation against a student or an employee who complains of sex discrimination or sexual harassment, or who participates in an investigation of a complaint, is prohibited. Retaliation is prohibited by Morthland College, state and federal law and can lead to disciplinary action independent of the sex discrimination or sexual harassment allegations.

XI. Frivolous or Malicious Charges

These procedures shall not be used to bring frivolous or malicious charges against fellow students, faculty or staff members. Disciplinary action under the appropriate Morthland College policies or procedures for students, faculty, and staff shall be taken against any employee or student bringing a frivolous or malicious charge of sex discrimination or sexual harassment.

XII. Education and Training

All administrators and supervisors must complete training on sex discrimination and sexual harassment. The Sex Discrimination and Sexual Harassment Panel Pool and Sex Discrimination/Sexual Harassment Advisors shall also complete the training.

Annual sex discrimination and sexual harassment education and training will occur to update and review sex discrimination and sexual harassment issues.

APPENDIX A

SEX DISCRIMINATION/SEXUAL HARASSMENT ADVISORS

1. Name
Title
Address
Telephone
Fax
Email

2. Name
Title
Address
Telephone
Fax
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3. Name
Title
Address
Telephone
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4. Name
Title
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5. Name
Title
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APPENDIX B



MORTHLAND COLLEGE
"Embracing Christ, Wisdom, Heritage and Tradition"

SEX DISCRIMINATION AND SEXUAL HARASSMENT COMPLAINT FORM

I am a (please check one): Student Employee Other (specify) _____

Your Name, Address, Telephone, and E-mail:

Name of person you believe committed an act of sex discrimination or sexual harassment:

Brief description of the incident (attach additional pages if necessary):

Name(s) and contact information of any witness to the incident (attach additional pages if necessary):

Please check one:

I understand that this is a formal complaint form that will initiate an investigation into my allegations. It is a confidential process based on need to know. I understand that Morthland College may be required by law to report non-identifying information about this complaint.

I do not want a formal investigation into my allegations and want the incident kept as a private, confidential matter. I understand that Morthland College may be required by law to report non-identifying information about this complaint.

Complainant Signature: _____ Date: _____