

Title IX Procedures for Complaints of Sexual Discrimination

I. Purpose and Intent

Mount Marty College is a Catholic liberal arts college in the Benedictine tradition. In accord with its history and mission, as well as in compliance with federal, state, and local laws, MMC does not discriminate in its employment decisions, programs, or any other activities on the basis of sex, race, age, color, national origin, religious preference, disability or any other basis prohibited by law.

Mount Marty College is committed to providing a learning, living and working community that is free from discrimination and harassment. Mount Marty provides ongoing education, prevention, and training programs in an effort to promote a community free of harassment and discrimination. The College also strives to make reporting concerns and incidents of sexual harassment and discrimination a responsibility of the community so that individuals can be offered support and a range of resources. The College is further committed to addressing incidents of misconduct, preventing their recurrence, and addressing and remedying the effects within the campus community.

This document contains the College's policies and procedures for preventing, reporting, and responding to sexual and gender-based misconduct. The policy also contains information about options, resources, and remedies for students, staff, faculty, and third parties who have experienced or been affected by such misconduct.

All Mount Marty community members have a responsibility to uphold to College policies and local, state, and federal law. Sexual Discrimination, as used in this policy, is a broad term meant to capture the many forms of conduct that may limit our community's growth and development.

II. Scope

This policy addresses harassment and discrimination by or against all individuals who participate in MMC's programs and activities, including students, faculty, staff, and third parties. The prohibition against Sexual Discrimination applies to the educational, residential and working communities, which includes all other associated settings, such as Mount Marty sponsored trips and social activities, including athletic trips, and internship placements. Additionally, this policy applies to all terms and conditions of employment including, but not limited to, hiring, placement, benefits, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

Students, staff, faculty and third parties are protected under this policy in connection with all the College's programs and activities, regardless of where the reported conduct alleged occurred. In responding to off-campus events, the College will consider the effects of the off-campus conduct on an individual's working, residential life or educational experience, including the impact on

the individual's ability to participate in sponsored activities or programs.

III. Title IX

In accordance with Title IX of the Education Amendments of 1972, MMC prohibits discrimination on the basis of sex in all programs and activities, including academic programs, extracurricular programs, and intercollegiate athletic activities. Title IX protects all persons, including students, faculty, staff, and non-employee third parties, regardless of gender or gender identity, from discrimination and harassment. Title IX also prohibits retaliation against people for making or participating in complaints of misconduct.

Sex Discrimination -- i.e., discrimination on the basis of sex or gender -- is strictly prohibited by MMC, Title IX, and other federal and state regulations. Sex Discrimination includes any action that is so severe, pervasive, and objectively offensive that it effectively denies or limits a person access to, or the benefits of, any program, activity, or employment opportunity of MMC, on the basis of sex or gender. Sex Discrimination may take many forms as described below and it is important to note that unwelcome conduct may still constitute unlawful Sex Discrimination if it denies a person equal access to a Mount Marty's educational programs, activities, or employment opportunities on the basis of sex or gender. Sex Discrimination includes:

1. Sexual harassment. Sexual Harassment refers to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment or status in a program, course, or activity; (2) submission to or rejection of the conduct by an individual is used as the basis for employment or educational decisions affecting an individual; or (3) the conduct is sufficiently pervasive, offensive or abusive to have the purpose or reasonable effect of interfering with an individual's work or educational performance, or creating an intimidating, hostile, or offensive work or educational environment. Examples of sexual harassment include: (a) physical assault; (b) unwanted sexual advances, requests for sexual favors or propositions of a sexual nature; (c) direct or implied threats that submission to sexual advances is a condition of employment, promotion, good grades, recommendations, etc.; (d) unwelcome verbal or physical conduct of a sexual nature which an individual regards as undesirable or offensive, including sexually explicit jokes, statements and questions or remarks about sexual activity or experience.
2. Sexual violence. Sexual Violence refers to physical sexual acts perpetrated against a person's will, or when a person is incapable of giving consent. A person is not capable of giving consent in many circumstances, including, but not limited to, when the person is: (1) asleep or unconscious; (2) physically helpless; (3) under the influence of drugs or alcohol; or (4) is unable to give consent due to an intellectual or other disability. It is important to recognize that past consent to sexual activity does not imply future consent, and that consent can be withdrawn at any time. Sexual violence includes, but is not limited to, rape and sexual abuse.

3. Rape. Rape is the carnal knowledge of a person forcibly and/or against that person's will, or not forcibly or against that person's will if the victim is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity. If a person engages in non-consensual sexual intercourse due to physical force, coercion or threat (actual or implied) the act is considered rape.
4. Sexual Abuse. Sexual abuse is any actual or attempted non-consensual sexual activity, including, but not limited to attempted intercourse, sexual touching and certain forms of exhibitionism.
5. Stalking. Stalking is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that makes that person afraid or concerned for his or her safety. Stalking occurs by frightening, unwanted communication by any means, including by phone, mail or e-mail, or internet social networks. Threats may be direct or indirect, and conduct may include following or writing to a victim.
6. Domestic violence. Domestic Violence is a pattern of abusive behavior, usually involving an intimate relationship that is used by one partner to gain or maintain control over another partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound the other partner. Domestic violence may include dating violence based on the type and frequency of interaction of the relationship.
7. Dating Violence. Dating Violence is abusive behavior, usually but not always involving an intimate relationship, that is used by one partner to gain or maintain control over another partner. Dating violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound the other person. The definition, protocols, and practices of dating vary; however, for the purposes of these grievance procedures dating is defined as people engaged in activities as a form of courtship. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.
8. Gender Harassment is discrimination or verbal/physical harassment which is based on the person's gender but which is not sexual in nature.

Retaliation Prohibited

No one may retaliate against any individual for filing a reasonable complaint alleging Sexual Discrimination or for assisting in a complaint investigation. Any member of the MMC community who attempts to interfere with, restrain, coerce, discriminate against, or harass

(whether overtly or covertly) any individual pursuing a complaint of Sexual Discrimination or assisting in a complaint investigation will be subject to prompt and appropriate disciplinary action, up to and include dismissal of employment or suspension from the school. Any retaliatory conduct should be reported immediately to the Title IX Coordinator.

IV. Title IX Coordinator

The Title IX Coordinator oversees the College's centralized review, investigation, and resolution of reports of prohibited conduct. The Title IX Coordinator also coordinates the College's compliance with Title IX. The Title IX Coordinator undergoes annual training to maintain knowledge of relevant state and federal laws and College policies and procedures. The Title IX Coordinator is an available resources to advise any individual, including a Complainant or Respondent, about the courses of action available at the College, both informally and formally. The Title IX Coordinator also assists all members of the College community regarding how to respond appropriately to reports of misconduct. The Title IX Coordinator retains discretion to modify any of the timelines set forth in this policy if the Title IX Coordinator determines, in the interests of fairness, that such an adjustment is necessary. Extensions of time may be granted, for instance, if the campus is not in session due to breaks in the academic calendar which limit the availability of witnesses and MMC employees needed to investigate and hear complaints.

All complaints concerning misconduct should be directed to Katie Harrell, MMC's Title IX Coordinator. Any MMC community member who has questions about the Title IX policy, or believes that the individual or any other member of MMC's campus community has been the affected by Prohibited Conduct, should contact the Title IX Coordinator immediately.

The Title IX Coordinator is responsible for maintaining, for a period of three years, records of any actions, including any supportive measures, taken in response to an informal or formal complaint. With respect to non-formal complaints, MMC will retain records of any actions, including supportive measures, taken in response to those complaints. Additionally, for Formal Complaints (defined below), MMC will maintain, for a period of three years, all records of:

- a. The investigation, including determination, sanction, and remedies;
- b. Any appeal and the results of that appeal;
- c. The results of informal resolution attempts, if any; and
- d. All materials used to train investigators, coordinators, and adjudicators with regard to Prohibited Conduct. Upon request of either the Complainant or Respondent involved in the Formal Complaint, MMC will make the records concerning that Formal Complaint available to one or both parties.

V. Responsible Parties Must Report Allegations

MMC considers all faculty and staff, including coaches, athletic trainers, safety officers, and resident assistants, to be "responsible parties" for purposes of reporting allegations of Prohibited Conduct. Any responsible party who learns of a potential allegation of misconduct must notify

the Title IX Coordinator immediately. The Title IX Coordinator will then proceed according to this policy.

Students, faculty, and staff may speak with MMC's Campus Chaplain or Campus Counselor confidentially concerning a potential violation of the Title IX policy. Neither the Campus Chaplain nor the Campus Counselor are required to provide any information to the Title IX Coordinator concerning these conversations. Additionally, MMC community members may call the River City Domestic Violence crisis line at (605) 665-1488 at any time to confidentially discuss sexual assault and other situations.

Privacy and Confidentiality

MMC recognizes the sensitive nature of Sex Discrimination allegations. MMC will do its utmost to protect the privacy of the parties involved to the extent that it is consistent with the law and MMC's need to protect the safety of its community. Any information concerning a complaint will be shared only on a need-to-know basis. The individual who was the subject of the Prohibited Conduct may choose whether to participate in the investigation; however, MMC may proceed with the investigation without the individual's participation if MMC deems it is in the interest of the community to do so.

Information that is private and information that is confidential are not the same. "Private" information means information that will only be shared with a limited circle of individuals on a "need to know" basis to allow active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

Confidential information is information that will not be shared by the receiving party with any other party. On MMC's campus, students, faculty, and staff may speak with Campus Chaplain (phone 605-668-1386) or MMC counselor (phone: 605-668-1518) confidentially about any allegations concerning Sex Discrimination. Conversations with Father or the counselor are protected and will not be reported to the Title IX Coordinator without consent. Additionally, MMC community members may call the River City Domestic Violence crisis line at (605) 665-1488 at any time to confidentially discuss sexual assault and other situations.

Other Reporting Options

MMC encourages members of the MMC community who believe they have been subject to Sexual Discrimination to use the reporting procedure outlined in this policy. In addition, individuals who believe they have been subjected to Sexual Discrimination also have the right to file a complaint with outside enforcement agencies, including the United States Department of Education Office of Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), the South Dakota Department of Labor, and state or local law enforcement authorities. Whether or not an individual chooses to contact law enforcement and initiate criminal charges, the individual retains the right to file a formal complaint through this policy. Individuals may also file a civil lawsuit against the offending party. If criminal or civil proceedings are commenced, MMC reserves the right to conduct its investigation and take disciplinary actions despite the ongoing legal proceedings and regardless of the outcome or disposition of any legal proceeding.

Resources and Support

There are many community resources available to victims of sexual violence, stalking, dating violence, and other conduct that may violate Title IX. Victims are encouraged to report crimes to the Yankton Police Department by dialing 911 or 605-668-5210. MMC campus safety may be reached by dialing 661-9883. Victims may also seek assistance from any of the following agencies:

Avera Sacred Heart Emergency Room (605-668-8100);
Lewis and Clark Behavioral Health Service Crisis Line (605-665-4606);
Yankton 24 Hour Domestic Violence Crisis Line (605-665-1488)
MMC Counseling Office (605-668-1518).

Misuse of Policy

A person who brings a reasonable charge of Sexual Discrimination in good faith, even if it may be erroneous, will not be subject to discipline. However, the use of this policy for false, malicious, or frivolous purposes is strictly prohibited. Any student, faculty, or staff member who brings a false, malicious or frivolous charge of Sexual Discrimination against another member of the MMC community may be subject to disciplinary action.

VI. Filing a Report Concerning Sexual Discrimination

MMC students, faculty, and staff who become aware of or are the victims of Sexual Discrimination should immediately contact the Title IX Coordinator. MMC will respond promptly and meaningfully to all reports. If the reporting party is not the alleged victim of Sexual Discrimination, the Title IX Coordinator will contact the alleged victim (i.e., the Complainant) and provide information concerning these Title IX procedures and process to the Complainant.

The Complainant may elect not to proceed at all, to proceed informally, or to file a Formal Complaint. Even if the Complainant does not file a Formal Complaint (defined below) initially, the Complainant may still elect to do so at a later date. The Title IX Coordinator may also initiate a Formal Complaint, even if the Complainant does not wish to do so, if the Title IX Coordinator determines that the Sexual Discrimination reported involves reports by multiple complainants of conduct by the same respondent that could constitute sexual discrimination.

The Respondent may also make an informal or formal complaint if the Respondent believes he or she has been a victim of Sexual Discrimination. In the event the Respondent files a Formal Complaint, the Title IX Coordinator will determine whether the same investigator should proceed on both complaints, and whether there is any need to separate the resolution of the Respondent's Complaint and the Complainant's Complaint for purposes of hearing or other resolution of the matters.

Supportive Measures

Upon receipt of an informal or formal complaint regarding Sexual Discrimination, the Title IX Coordinator will work with all parties involved to implement appropriate supportive measures or accommodations that are reasonably available to protect the safety and well-being of the Complainant, the accused party (i.e., the Respondent), and the campus community. Supportive measures may include counseling, deadline extensions, mutual no contact orders, leaves of absence, provision of escorts, residence modifications, and academic and campus work accommodations. The provision of supportive measures will be kept confidential to the extent that maintaining confidentiality does not impact MMC's ability to provide the supportive measures. Supportive measures will be non-disciplinary, non-punitive, individualized, and narrowly tailored and are intended to restore or preserve access to educational program and activities in a manner that does not provide an unreasonable burden to any party. No fee will be charged to any party for the provision of the supportive measures. All parties will be informed that MMC prohibits any retaliation against parties involved in Sexual Discrimination complaints and that retaliation of that nature is grounds for disciplinary action.

Suspension/Leave of Absence

In addition to initiating supportive measures, the Title IX Coordinator may, after undertaking an individualized safety and risk analysis, impose an interim suspension or leave of absence on a Student Respondent if the Title IX Coordinator determines that there is an immediate threat to the health or safety of MMC's students, faculty or staff. Similarly, if the Respondent is a faculty or staff member, the Title IX Coordinator may impose a paid administrative leave on Respondent if the Title IX Coordinator determines there is an immediate threat to the health or safety of MMC's students, faculty or staff. For students with disabilities, any removal process will also comport with Section 504 of the Rehabilitation Act. A Respondent may appeal this action pursuant to MMC's Student Handbook, Staff Handbook, or Faculty Handbook, whichever is applicable.

Protection Order

MMC will ensure orders of protection issued by courts are upheld on all College-owned and controlled property. Therefore, if any member of the MMC community obtains an order of protection or restraining order he or she should promptly provide MMC campus safety as well as the Title IX Coordinator with a copy of that order so that MMC can enforce it.

VII. Informal & Formal Investigation

If a Formal Complaint is filed by either the Victim or the Title IX Coordinator, MMC will undertake an investigation of the Formal Complaint. A Formal Complaint is a signed written complaint with the Title IX Coordinator. The Formal Complaint should set forth in reasonably sufficient detail (1) the nature of the alleged discrimination; (2) the individual(s) against whom the complaint is made (i.e., the "Respondent"); (3) the names of any witnesses; (4) any available

evidence or sources of evidence; and (5) how the alleged discrimination denies or limits access to, or the benefits of, any program, activity, or employment opportunity of MMC.

Notice of Investigation

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide the Complainant and Respondent with a written copy of this policy document. The Title IX Coordinator will also, in writing, fully disclose to both the Complainant and Respondent (1) the allegations of wrongdoing, including, if known, the specific policies of MMC that were violated, the conduct allegedly constituting Sexual Discrimination, and the date and the location of the alleged incident(s); (2) the rights and responsibilities of all parties, including the fact that Respondent shall be presumed not responsible at the commencement of the investigation and that the ultimate determination will be made at the conclusion of the grievance process and that each party has the right to request and inspect the evidence; (3) the formal and informal resolution process; (4) the prohibition against retaliation; (5) the need to preserve any relevant evidence or documentation in the case, not only for use in the hearing process, but also for use in other proceedings, including criminal matters, civil proceedings, and protection order proceedings; (6) the availability of supportive measures and accommodations; (7) the need to prove the allegations by a preponderance of the evidence; and (7) possible remedies and outcomes. The notice will also inform all parties that they may request to inspect and review evidence, and that knowingly making false statements or submitting false information during the process is prohibited. This notice will be provided to the Complainant and the Respondent with sufficient time for each to prepare a response before any initial interview.

Informal Process

At any time prior to reaching a determination concerning responsibility, the Complainant and Respondent can agree to utilize an informal resolution process to resolve the Formal Complaint. If either the Complainant or Respondent is unwilling to participate, no mediation will occur and the hearing will proceed. Prior to implementing an informal process, in addition to the information noted above, the Title IX Coordinator will provide the parties a written notice of the terms of the proposed informal resolution process, and any consequences resulting from an informal resolution, including the records maintained. The Title IX Coordinator will obtain the parties' voluntary, written consent to informal resolution.

The parties to the informal process will not be required to deal directly with one another unless both parties agree. Instead, either the Title IX Coordinator or a neutral third party appointed by the Title IX Coordinator will act as mediator who will share the results of the investigation with the parties, meet with the parties either jointly or separately, and make recommendations for resolution of the complaint. The Complainant and the Respondent may each have a support person present at all meetings in which they participate. The mediator does not have the authority to impose a resolution on the parties but will attempt to reach a satisfactory resolution of the complaint. Steps taken by the mediator to help the parties achieve informal resolution, and the results of the mediation will be documented and provided to the Title IX Coordinator. The Title IX Coordinator will contact the Complainant and Respondent to determine whether the informal resolution has adequately resolved the Complaint. Any party may request that the informal

resolution process be terminated at any time. Upon termination, the hearing process will be initiated promptly.

Overview of the Investigation

Where the College initiates Formal Resolution, the Title IX Coordinator (or designee) will appoint a trained investigator or investigators to conduct a prompt, equitable, thorough, and impartial investigation of reports of misconduct. The investigator may be a College employee or an external investigator engaged to assist the College in conducting an investigation. The investigator(s) will treat all parties with appropriate sensitivity and respect and the investigation will be conducted in a manner that is respectful of individual privacy concerns.

The investigation process commences under the presumption that the Respondent is not responsible for the alleged conduct, and that presumption persists until a determination regarding responsibility is made final at the conclusion of the grievance process. The investigation will be done in a prompt, thorough, impartial, and fair manner. The investigation will be objective, and will consider all relevant evidence, both inculpatory and exculpatory. Credibility determinations will not be based on a person's status as complainant, respondent, or witness. All parties involved, including witnesses, will be treated with respect and with sensitivity.

The investigation will be completed within 60 days of the filing of the Formal Complaint unless the Title IX Coordinator determines that good cause exists to extend this time period. Good cause includes concurrent law enforcement activity, campus closure for holidays and breaks, and witness availability. The Title IX Coordinator will notify the parties in writing if good cause is found to extend the deadlines. The Title IX Coordinator will provide the parties with periodic updates regarding the status of the process and will provide notice to the Complainant and Respondent of any additional allegations of Title IX violations discovered in the course of the investigation.

The Investigator will objectively gather and consider relevant facts. The Investigator will interview the Complainant and the Respondent, as well as any witnesses. The Title IX Coordinator or the Investigator will provide written notice to each party of the date, time, place, and purpose of all hearing, interviews, or other meetings with that party with sufficient time for the party to prepare to participate. The Investigator will not limit the ability of either the Complainant or the Respondent to discuss the allegations or gather evidence, and both Complainant and Respondent shall have equal opportunity to present witnesses and evidence.

The Complainant and Respondent may each have a support person present at all interviews in which they participate but the support person will not be permitted to actively participate in the interview. A "support person" may be a friend, parent, trusted adult, or an attorney as the Complainant or Respondent feels appropriate. The Investigator will ensure that all interviews are properly documented and that the investigation is conducted in a thorough, objective manner that is considerate of all parties involved.

Each party will have an equal opportunity to inspect and review any evidence obtained in the investigation that is directly related to the allegations raised in by the Formal Complaint,

including evidence on which the Investigator does not intend to rely in the Investigator's Report. The information will be made available in an electronic format that restricts the parties from downloading or copying the evidence, and the parties shall have at least fifteen calendar days to prepare a written response to all evidence, which responses the Investigator shall consider in preparing the Investigator's Report. If a party needs additional time to respond, the party should make that request in writing to the Title IX Coordinator who, in the Coordinator's discretion, may grant such extension.

Investigator's Report

Upon conclusion of the investigation, the investigator will provide the Title IX Coordinator with a report that fairly summarizes and analyzes the relevant facts and any supporting documentation (which may include statements by the parties, third-party witnesses, or others with information and any physical, written, or electronic or other evidence). The Title IX Coordinator shall provide a copy of the Investigator's Report to both the Complainant and the Respondent at least 15 days prior to the Grievance Hearing, and either party may provide a written response to the report prior to the hearing.

Notification of Hearing

A live hearing in front of an independent Hearing Officer appointed by the Title IX Coordinator will be conducted to make a final determination concerning whether the Formal Complaint is supported by a preponderance of the evidence. The Complainant and Respondent will each be given at least 15 days written notice of the date, time, location, and purpose of the evidentiary hearing, as well as the name of the Hearing Officer who will preside at the hearing. Either party may challenge the Hearing Officer on the basis of conflict of interest or bias. In the event of such a challenge, the Title IX Coordinator shall appoint a substitute Hearing Officer to handle the hearing.

The hearing process is not intended to be adversarial; rather, it is intended to be educational, corrective, and developmental. The hearing is intended to provide fair and ample opportunity for each party to present their account/narrative; to enable the hearing officer to determine the facts of the case; to make a determination regarding the alleged violations of this policy, Mount Marty regulations, policies, and community standards; and to recommend appropriate educational outcomes (sanctions), if necessary.

Both the Complainant and Respondent will be represented at the hearing by an advisor of their choice, who may or may not be an attorney. MMC will not provide attorneys for either party, but will assist both parties in locating an appropriate advisor as requested. At least 15 days prior to the hearing, the Title IX Coordinator will provide a copy of the Investigator's Report and all documentary evidence gathered by the Investigator to the Hearing Officer, the Complainant, and the Respondent. Only the Complainant, Respondent, their support persons, the Title IX Coordinator, the Hearing Officer, and any legal advisor to MMC may be present at the hearing. Hearings are closed to the MMC community and to the public.

It is the responsibility of each party to request that their witnesses attend the hearing. The parties

must notify the Hearing Officer and the other party of the witness names at least 2 days prior to the hearing date. Each side shall also provide the Title IX Coordinator and the other party a copy of all written evidence it intends to introduce at the hearing at least 2 business days prior to the hearing.

The Complainant and the Respondent shall have an equal opportunity to present witnesses and evidence. The Hearing Officer shall inform the parties of the hearing procedures and answer any questions the parties may have regarding those procedures. The Complainant shall present her/his case first, followed by the Respondent. Witnesses shall only be present while presenting testimony except with the consent of both parties. The Hearing Officer shall ask questions of each witness. At the conclusion of the Hearing Officer's questions, both the Complainant and Respondent may submit additional written questions to the Hearing Officer and request that the Hearing Officer submit the additional questions to the witness. The Hearing Officer shall then ask the witness the questions submitted by the Respondent and Complainant unless the Hearing Officer deems them inappropriate or irrelevant. A brief recess may be given at the conclusion of the Hearing Officer's examination of the witnesses to allow the Complainant and Respondent to submit additional questions.

The strict rules of evidence shall not apply and the Hearing Officer may allow introduction of any relevant evidence bearing upon the issues which is not inherently untrustworthy. However, any questions concerning the Complainant's prior sexual behavior will be excluded, unless such questions are offered to prove that someone other than Respondent committed the alleged conduct, or that specific prior incidents demonstrate consent of the Complainant to the alleged conduct.

After submission of all of the evidence, the Complainant may make a final argument, which shall address itself both to the substantive issues and to the question of the appropriate sanction should the Hearing Officer find that a violation has occurred. The Respondent will be given a like opportunity to make a similar argument. The Complainant may make a second argument limited to matters of rebuttal.

The hearing shall be recorded by means of electronic audio recording. Either side may have the proceedings recorded by a reporter at his/her own expense. Both the Complainant and Respondent shall have the right, upon request, to listen to the recording in the presence of the Title IX Coordinator.

Within 30 days of the conclusion of the hearing, the Hearing Officer will make a final written determination explaining for each allegation whether the Respondent is responsible or not responsible by a preponderance of the evidence, including the facts and evidence upon which the conclusion is based. Credibility determinations are for the Hearing Officer to make. The Hearing Officer's written report will include the following:

- a. Identification of the section(s) of MMC policies alleged to have been violated by the Respondent;
- b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties,

- interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- c. Findings of fact supporting the determination;
 - d. Conclusions regarding the application of the facts to the policy language;
 - e. A statement of “rationale” for each allegation, including a determination regarding responsibility, sanctions, if any, on Respondent, and any remedies to be provided by Mount Marty to the Complainant designed to restore or preserve access to the Complainant’s education program or activity; and
 - f. Mount Marty’s procedures and bases for appeal. The Hearing Officer should also inform the parties that the decision is not final until any appeal process is exhausted.

VIII. Final Appeal to MMC’s President

Either party may appeal the Hearing Officer’s decision to MMC’s President. The request for an appeal, including the grounds upon which the request is based, should be submitted in writing to MMC’s President within ten (10) calendar days of the date the party is informed of the Hearing Officer’s decision. The appeal is limited, and may only be made on the following grounds: (a) procedural irregularities; (b) newly discovered evidence or additional information not available at the grievance hearing which could alter the outcome of the case; and/or (c) the sanction imposed was too severe or not severe enough. The Title IX Coordinator will provide a copy of the appeal to the non-appealing party who will have five (5) business days to respond if the non-appealing party elects to do so.

The Title IX Coordinator shall provide the President with a copy of the Investigator’s report and the Hearing Officer’s decision. These documents plus the request for appeal and any response to that request constitute the “appeal record.” The President shall review the appeal record. The President may conduct an additional interview of the Complainant and Respondent, provided, however, if the President interviews either party the President shall also interview the other party. In the case of an interview, both the Complainant and Respondent shall be entitled to have a support person with them during the interview process.

The President may (a) affirm the Hearing Officer’s decision and sanctions; (b) affirm the Hearing Officer’s decision and modify the sanction(s) which shall be effective on the date specified by the President; (c) remand the case to the Hearing Officer for a new hearing if proper procedures were not followed; or (d) reverse the Hearing Officer’s decision based on new information. The President shall provide his/her written decision to the Title IX Coordinator within 30 business days after the President receives the appeal record. The results of the President’s decision will be communicated in writing to the appropriate MMC authorities, to the Complainant, and to the Respondent consistent with MMC’s obligations under state and federal law. The President’s decision is final.