



MORTON COLLEGE GUIDELINES FOR ADDRESSING DISCRIMINATION, SEX BASED HARASSMENT OR MISCONDUCT, HARASSMENT OR RETALIATION

I. STATEMENT OF INTENT

Morton College is committed to providing a safe and secure working and learning environment in all educational programs and activities free from Discrimination, Sex Based Harassment or Misconduct, Harassment or Retaliation for all college community members, students, employees and others.

The Morton College Board of Trustees (the “Board”) has empowered the Title IX Coordinator and/or their designee(s), to process all Discrimination, Sex Based Harassment or Misconduct, Harassment or Retaliation allegations or complaints. These Guidelines must be read in conjunction with the Morton College Board’s Comprehensive Non-Discrimination, Sex Based Harassment or Misconduct, Harassment and Retaliation Policy. Additionally, these Guidelines will be reviewed at least annually and amended to ensure that they comply with Morton College Board policies and procedures, State and Federal law, and all state and federal regulations that govern Morton College.

This policy shall incorporate by reference all applicable provisions in 34 CFR § 106.1 *et seq.* Should any part of this policy conflict with the provisions in 34 CFR § 106.1 *et seq.*, the provisions in 34 CFR § 106.1 *et seq.* shall apply.

II. THE GUIDELINES’ SCOPE OF COVERAGE

These Guidelines cover instances where a Complainant makes allegations or files a complaint against a Morton College student, employee, contractor, consultant, vendor, volunteer or member of the Board (collective referred to as “Covered Individuals”) that asserts that the Covered Individual engaged in improper Discrimination, Sex Based Harassment or Misconduct, Harassment or Retaliation in the work setting or in an educational program or activity as those terms are defined below.

This Policy covers all phases of employment and academic status, including, but not limited to, recruitment, hiring, evaluations, upgrading, rates of pay, the selection for training, promotions, demotions, transfers, layoffs, employment non-renewals, termination, benefits, discipline, expulsions, admissions, educational testing, extracurricular programs, and athletics.

Nothing in this Policy is intended nor shall be construed to create a private right of action against Morton College or the Board or any of its employees or agents. Furthermore, no part of this Policy shall be construed to create contractual or other rights or expectations. Nothing herein is intended to affect the right of any person to file a charge or complaint of Discrimination, Sex Based Harassment or Misconduct, Harassment or Retaliation with any agency with jurisdiction over such charge or complaint.

III. DEFINITIONS

- a. Complainant:** (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in Morton College's education program or activity at the time of the alleged sex discrimination.
- b. Complaint:** Complaint means an oral or written request to Morton College that objectively can be understood as a request for the College to investigate and make a determination about alleged discrimination under Title IX or its regulations. The following persons have the right to make a complaint of sex discrimination, including complaints of sex-based harassment
1. A complainant
 2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant;
 3. The Title IX Coordinator, after making the determination in accordance with 34 CFR § 106.44(f)(1)(v);

With respect to complaints of sex discrimination other than sex-based harassment, all of the aforementioned individuals in (1)-(3) as well as: any person other than a student or employee who was participating or attempting to participate in Morton College's education program or activity at the time of the alleged sex discrimination

- c. Confidential Employee:** (1) An employee of Morton College whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; (2) An employee of Morton College whom Morton College has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or (3) An employee of a postsecondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.
- d. Covered Individuals:** A Morton College student, employee, contractor, consultant, vendor, volunteer or member of the Board shall be subject to the jurisdiction of these Guidelines.
- e. Discrimination:** Unjust or prejudicial treatment, including harassment and sexual misconduct, towards an individual due to that person's real or implied membership in one or more of the Protected Categories as defined below.
- f. Educational Program or Activity:** Locations, events or circumstances over which Morton College exercises substantial control. Morton College exercises substantial control over: (1) premises that it owns or officially recognized student organizations that own or control the

premises; (2) where it exercises oversight, supervision or discipline (e.g., a student's status in a Morton College course or program); or (3) where it has funded, sponsored, promoted or endorsed a certain event. Morton College specifically does not exercise substantial control over any event occurring outside the United States of America. Morton College has an obligation to address a sex-based hostile environment under its education program or activity even when some conduct alleged to be contributing to the hostile environment occurred outside Morton College's education program or activity or outside the United States

- g. Harassment:** Unwelcome verbal, nonverbal, visual, and/or physical conduct that is the person's real or implied membership in one or more of the Protected Categories as defined below. Unwelcome conduct may include, but is not limited to, bullying, intimidation, offensive jokes, slurs, epithets or name calling, assaults or threats, touching, ridicule or mockery, insults or put-downs, offensive objects or pictures, messages sent via email, text or social media, or any other persistent, pervasive or severe conduct that interferes with work performance or a student's access to or participation in any educational program or activity.
- h. Dating Violence:** Meaning violence committed by a person: (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.
- i. Decision Maker:** An individual chosen by the Title IX Coordinator to conduct an administrative hearing based upon the findings made in an investigative report completed by an Investigator. The Decision Maker may be the same individual as the Title IX Coordinator or Investigator.
- j. Domestic Violence:** meaning felony or misdemeanor crimes committed by a person who: (1) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of Morton College, or a person similarly situated to a spouse of the victim; (2) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (3) Shares a child in common with the victim; or (4) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
- k. Investigator:** An individual chosen by the Title IX Coordinator to conduct an impartial investigation into allegations set forth in a Complaint.
- l. Protected Category:** Actual or perceived sexual orientation, gender or sex (includes gender identity, gender expression, pregnancy, childbirth, breastfeeding, and pregnancy related medical conditions), race or ethnicity, ethnic group identification, ancestry, nationality, national origin, religion, color, disability, age (40 and above), immigration status, marital status, registered domestic partner status, genetic information, political belief or affiliation (not union related), military status, unfavorable discharge from military service, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics, or any other basis protected by federal, state or local law, ordinance, or regulation.
- m. Relevant:** Related to the allegations of sex discrimination under investigation as part of the grievance procedures under 34 CFR § 106.45, and if applicable 34 CFR § 106.46. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in

determining whether the alleged sex discrimination occurred.

- n. Respondent:** A Covered Individual that has been accused of engaging in Discrimination, Sex Based Harassment or Misconduct, Harassment or Retaliation against a Complainant. Shall not include Morton College where the accusation or complaint alleges that Morton College's policy or practice discriminates on the basis of sex.

When a respondent is both a student and an employee, Morton College shall conduct a fact-specific inquiry to determine whether to apply grievance procedures applicable to students. In doing so, a minimum, the following shall be considered: the party's primary relationship with Morton College and whether the alleged discrimination occurred while performing employment related work.

- o. Retaliation:** Adverse employment action or adverse change in academic status, such as discipline or denial of or access to a service or benefit, against any person for having made a complaint or report of Discrimination, Sex Based Harassment or Misconduct, Harassment or Retaliation, whether made internally, or externally with a federal, state, or local agency; or participating or aiding in an investigation of Discrimination, Sex Based Harassment or Misconduct, Harassment or Retaliation, whether internal, or external with a federal, state, or local agency, is strictly prohibited.

Nothing in this definition or this part precludes Morton College from requiring an employee or other person authorized by Morton College to provide aid, benefit, or service under Morton College's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this part.

- p. Sexual Assault:** A forcible or nonforcible sex offense in which any sexual act is directed against another person without the consent of the victim including instances where the victim is incapable of giving consent.

- q. Sex Based Harassment Under Title IX Regulations:** a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

1. Quid pro quo harassment: An employee, agent, or other person authorized by Morton College to provide an aid, benefit, or service under Morton College's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
2. Hostile environment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from Morton College's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry which includes consideration of all of the following:
 - (i) The degree to which the conduct affected the complainant's ability to access Morton College's education program or activity;
 - (ii) The type, frequency, and duration of the conduct;
 - (iii) The parties' ages, roles within Morton College's education program or activity, previous interactions, and other factors about each party that

- may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in Morton College's education program or activity; or

3. Specific offenses:

- Sexual assault (as defined above), dating violence (as defined above), domestic violence (as defined above), sexual misconduct (as defined below) or stalking (as defined below).
- r. **Sexual Misconduct:** Any conduct of a sexual nature that is unwelcome or inappropriate, including but not limited to, sexual harassment, sexual assault, grooming, dating or domestic violence, sexual violence, inappropriate touching, or any misuse of a sexual nature of any Morton College information technology, as described in Board Policy 8.2.1.
- s. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person's safety or the safety of others, or (b) suffer substantial emotional distress.

IV. Dual Status Persons

Where an individual is both a Student and an Employee of the College, and to the extent the distinction between Student or Employee status is material for any standard, obligation, right, or process set forth in this Policy, the Title IX Coordinator will determine the individual's status for purposes of this Policy. Such determination shall be made after a fact-specific inquiry that includes consideration of relevant circumstances, including whether the individual's primary relationship to the College is to receive an education or to work, and in what capacity the person was acting (or failing to act) with regard to the events in question.

V. PROCEDURES FOR HANDLING ALLEGATIONS AND COMPLAINTS OF DISCRIMINATION, SEX BASED HARASSMENT OR MISCONDUCT, HARASSMENT AND RETALIATION

A. Filing an Allegation or Complaint and Reporting Obligations

1. Reporting Obligations

All Morton College employees have an obligation to immediately report to the Title IX Coordinator any and all allegations that they learn of from a third party or have reasonable belief occurred where a Covered Individual engaged in Discrimination, Sex Based Harassment or Misconduct, Harassment or Retaliation in the work setting or in an educational program or activity. The failure to immediately report such an allegation could result in disciplinary action up to and including termination.

Morton College students and third parties who experience or learn about an alleged violation of these Guidelines are encouraged to immediately report the alleged violation to the Title IX Coordinator or any non-confidential campus employee.

2. Confidential Reporting

Individuals wishing to receive confidential assistance without making a report to the College may speak with the College's Confidential Advisor. This confidential resource is available to assist you and will not report your circumstances to the College without your permission unless otherwise required to do so by law (such as when the victim is a minor). A Confidential Advisor is available to discuss incidents or accusations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking with both Complainants and Respondents in confidence, and provide emotional support in a safe and confidential space.

Notwithstanding the foregoing, when necessary, the Confidential Advisor will make a non-identifying report to the appropriate College personnel so that reported crimes can be included in the College's annual crime statistics disclosure. Disclosures to a Confidential Advisor will not initiate the College's investigation into an incident. The Illinois Preventing Sexual Violence in Higher Education Act grants Confidential Advisors the right to provide confidential services to and have privileged, confidential communications with survivors. All communications between a confidential advisor and a survivor pertaining to an incident of sexual violence shall remain confidential, unless the survivor consents to the disclosure of the communication in writing, the disclosure falls within one of the exceptions outlined below, or failure to disclose the communication would violate State or federal law.

Communications include all records kept by the confidential advisor in the course of providing the survivor with services related to the incident of sexual violence. There are only a few instances in which a Confidential Advisor will have to break confidentiality and disclose information that they have received. The Confidential Advisor may disclose confidential communications between the Confidential Advisor and the survivor if any of the following instances were to occur:

- a) if the Confidential Advisor's failure to disclose would result in a clear, imminent risk of serious physical injury to or death of the survivor or another person;
- b) if the Confidential Advisor receives written permission from the disclosing person allowing the Confidential Advisor to share information with the person's family, doctor, or College personnel;
- c) if the Confidential Advisor is court-ordered to provide information about person's disclosure, assessment, communications, or evaluation; and / or
- d) if the person indicates abuse, neglect, or exploitation of a child under 18 years of age or an individual age 60 or older who is unable to adequately care for himself / herself / themselves.

The confidential advisor shall have no obligation to report crimes to the higher education institution or law enforcement, except to report to the Title IX coordinator, as defined by Title IX of the federal Education Amendments of 1972, on a monthly basis the number and type of incidents of sexual violence reported exclusively to the confidential advisor in accordance with the higher education institution's reporting requirements under subsection (b) of Section 9.21 of the Board of Higher Education Act and under federal law.

In addition to providing confidential counseling, a Confidential Advisor also provides emergency and ongoing support to individuals who have experienced or been accused of Sexual Assault, Dating Violence, Domestic Violence, or Stalking including:

- a) Providing information regarding the individual's reporting options and possible outcomes, including making a report or a Complaint under this Policy and notifying local law enforcement;
- b) Providing information about available resources and services, including but not limited to services available on campus and through community-based resources such as sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services and mental health services;
- c) Providing information regarding orders of protection, no contact orders or similar lawful orders issued by the College or a criminal or civil court;
- d) An explanation of the individual's right to have privileged, confidential communications with the Confidential Advisor consistent with applicable law;
- e) Upon request and as appropriate, providing assistance in contacting campus officials, community-based sexual assault crisis centers, campus security and/or local law enforcement; and/or
- f) Upon request, providing assistance with securing Supportive Measures and accommodations.

To contact a Title IX confidential advisor please contact personalcounseling@morton.edu or call (708) 656-8000 x2297.

3. Filing an Allegation or Complaint

Any complainant of Discrimination, Sex Based Harassment or Misconduct, Harassment or Retaliation shall notify the Title IX Coordinator or any non-confidential College employee. While not required, the preferred method for filing an allegation with the Title IX Coordinator is in writing on a form that may be found at <https://www.morton.edu/about/employment/title-ix-sexual-misconduct/>.

The Title IX Coordinator will consider the Complainant's wishes before initiating any investigation or grievance process regarding the allegations. On some occasions, the Title IX Coordinator may initiate an investigation or grievance process against the wishes of a Complainant if doing so is necessary for community safety or not clearly unreasonable in light of all the known circumstances. The Title IX Coordinator will determine whether to initiate an investigation or grievance process within fourteen (14) calendar days of receiving the Allegation or Complaint.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v). Morton College may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. However, if one of the consolidated complaints involves a student complainant or respondent, the grievance procedures for resolving the entire complaint must comply with 34 CFR §§ 106.45-106.46. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

4. Preliminary Assessment

After receiving a Report of potential Sex Discrimination, the Title IX Coordinator will conduct a preliminary assessment to determine:

- a. Whether the conduct, as reported, falls or may fall within the scope of this Policy; and
- b. Whether the conduct, as reported, constitutes or may constitute Sex Discrimination.

If the Title IX Coordinator determines that the conduct reported does not and could not fall within the scope of the Policy, and/or does not and could not constitute Sex Discrimination, even if investigated further, the Title IX Coordinator will close the matter and may notify the reporting party if doing so is consistent with FERPA.

The Title IX Coordinator may refer the report to other College offices, as appropriate. If the Title IX Coordinator determines that the conduct reported could fall within the scope of this Policy, and/or could constitute Sex Discrimination, if investigated further, the Title IX Coordinator will proceed to contact the Complainant. As part of the preliminary assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if it is not apparent from the Report.

5. Supportive Measures

The Title IX Coordinator shall provide support to both the Complainant and Respondent. The Title IX Coordinator shall offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to make a Complaint. Requirements relating to the Respondent shall only apply to sex discrimination complaints alleging that a person violated Morton College's prohibition on sex discrimination.

Contemporaneously with the Respondent being notified of a Complaint, the Title IX Coordinator will notify the Respondent of the availability of Supportive Measures for the Respondent, and the College will offer and make available Supportive Measures to the Respondent in the same manner in which it offers and makes them available to the Complainant.

The College will also offer and make available Supportive Measures to the Respondent prior to the Respondent being notified of a Complaint, if the Respondent requests such measures. Supportive Measures that burden a Respondent will only be imposed after a Complaint is made and will be terminated at the conclusion of the investigation and adjudication process.

Supportive Measures that burden a Respondent must be no more restrictive of the Respondent than is necessary to restore or preserve the Complainant's access to the College's Education Programs or Activities and will not be imposed for punitive or disciplinary reasons.

For Supportive Measures, other than those that burden a Respondent, the College may, as appropriate, modify or terminate such Supportive Measures at the conclusion of the investigation and adjudication process or at the conclusion of any informal resolution process, or the College may continue them beyond that point. Either party may request that the Title IX Coordinator modify, augment, or terminate Supportive Measures, after their imposition, if circumstances have changed materially.

The support measures offered by the Title IX Coordinator shall be designed to: (1) restore or

preserve access to the school's educational programs or activities without unreasonably burdening the Complainant or Respondent; (2) protect the safety of all parties and the school's educational environment; and (3) deter discrimination, Sex Based Harassment or misconduct, harassment or retaliation. Such measures may include, but are not limited to, the following:

- counseling,
- extensions of deadlines or other course-related adjustments,
- modifications of work or class schedules,
- campus escort services,
- mutual restrictions on contact between the parties,
- changes in work or housing locations,
- leaves of absence, and
- increased security and monitoring of certain areas of the campus.

The supportive measures shall be offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent.

6. Emergency Interim Removal of Respondent

At any time after receiving a report of Sex Discrimination, the Title IX Coordinator may remove a Student Respondent from one or more of the College's Education Programs or Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the health or safety of any Student or other individual arising from the allegations of Sex Discrimination justifies removal.

In the event the Title IX Coordinator imposes an interim removal, the interim removal is subject to appeal pursuant to the appeal procedure specified in the "Appeals" section of this document.

In the case of a Respondent who is a non-student Employee (e.g., administrator, faculty, or staff), and in its discretion, the College may place the Respondent on full or partial administrative leave at any time after receiving a report of Sex Discrimination, including during the pendency of the investigation and adjudication process.

For all other Respondents, including volunteers, guests, and independent contractors, the College retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Sex Discrimination or otherwise.

7. Informal Resolution Option (In Certain Cases)

At the discretion of the Title IX Coordinator, and with due consideration of the wishes of the Complainant, the Title IX Coordinator or designee may institute an informal resolution process between the Complainant and Respondent after a Complaint has been filed. The form and process of the informal resolution process shall be determined by the Title IX Coordinator. The goal of the informal resolution process is to reach an amicable resolution to the allegations in the best interest of Morton College and the parties taken into consideration.

Before the informal resolution process is undertaken, the Title IX Coordinator shall: (a) provide the parties with written notice of the allegations; (b) the requirements of the informal resolution process and any consequences of participating in it; and (c) obtain the parties' voluntary written consent to the use of the informal resolution process.

The notice of informal resolution procedures shall:

- a. Describe the allegations if such notice has not already been provided in writing.
- b. Describe the parameters and requirements of the informal resolution process to be utilized.
- c. Identify the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, another College official, or a suitable third-party, provided such person is not the Investigator or Decision Maker).
- d. Explain the effect of participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the Complaint.
- e. Explain that either party has the right to withdraw from informal resolution and initiate or resume the investigation and adjudication process.
- f. Explain any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.
- g. Explain potential terms that may be requested or offered in the informal resolution, including restrictions on contact and restrictions on the Respondent's participation in one or more of the College's Education Programs or Activities.
- h. Explain that an informal resolution agreement is binding only on the parties.
- i. Explain if the College resumes its investigation and adjudication process, the College will not access, consider, disclose, or otherwise use information, including records,

If an informal resolution is reached, then the resolution shall be placed in writing and served on both parties along with appropriate Morton College personnel. The informal resolution shall be signed by all parties. Once a resolution is reached, then the complaint will be closed and not processed further.

If an informal resolution cannot be reached, then the Title IX Coordinator shall inform the parties in writing and advance the allegations to the next stage.

The informal resolution may be used to resolve allegations that a Morton College employee sexually harassed a student, where both Parties and the Title IX Coordinator provide consent.

B. Grievance Procedure for Title IX Complaints

1. Key Elements of Investigation:

A formal investigation into the allegations shall only occur when a complaint has been filed by the Complainant or the Title IX Coordinator. Key elements of the investigation include the following:

- The Respondent is presumed innocent throughout the grievance process with the burden of proof on Morton College to prove the allegations raised in the complaint;
 - The decision-maker shall be an individual chosen by the Title IX Coordinator, but shall not be the Title IX Coordinator;
 - The evidentiary requirement before any disciplinary action or sanction may be imposed on a Respondent is by a preponderance of the evidence standard;
 - Written notice of the allegations will be simultaneously given to all relevant parties and all parties and their advisors shall have an equal opportunity to review the evidence;
 - Morton College allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay. Reasonable extensions of timeframes shall be determined by the Title IX Coordinator due to administrative need or based on the reasonable request of the parties.
 - Morton College shall notify the parties if it is requesting any delay or extension of time frames set forth below and the reasons for it; and
 - A final investigative report shall be completed at the conclusion of the investigation which shall be simultaneously given to all parties and their advisors.
2. Morton College will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.
3. Morton College will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by Morton College to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Morton College obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
 - Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

C. Written Notice of Allegations

Within five (5) calendar days of the Title IX Coordinator receiving a Complaint, the Title IX Coordinator will transmit a written notice to the Complainant and Respondent. The period of time for the transmission of notice may be extended upon a showing of good cause and with notice being given to the parties which provides the reason for the extension. Written notice of the complaint's allegations shall provide the parties sufficient time to prepare for any initial interview. The written notice shall include all of the following:

1. Sufficient detail of the allegations (including the identities of the parties involved, the conduct allegedly constituting sexual discrimination, and the date and location of the alleged incident) to permit the parties to prepare for an initial interview;
2. Notification to the parties that they may have an advisor of their choice and inspect and review evidence obtained during the investigation;
3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is only made at the conclusion of the grievance process;
4. A statement that the party is entitled to receive access to relevant evidence or to an investigative report that accurately summarizes the evidence a statement that the parties will have an opportunity to present relevant evidence to a trained, impartial decisionmaker prior to such adjudication being made; a statement that the parties will have an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
5. If the case is one involving Sex-Based Harassment and a Student Complainant or Student Respondent, a statement that the party may be accompanied by an advisor of their choice, who may be an attorney, and who is permitted to fulfill the role of advisor;
6. A statement informing the parties that making false statements or knowingly submitting false information during the grievance process violates Board Policy; and
7. If, in the course of an investigation, Morton College decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.
8. A statement of Morton College's applicable grievance procedures, as well as any applicable informal resolution procedures.
9. A statement that retaliation is prohibited.

If Morton College expands its investigation to include additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the original notice described above, Morton College shall provide notice of the additional allegations to the parties whose identities are known.

For Complaints involving a student Complainant or Respondent, Morton College may reasonably delay the providing of written notification to address reasonable safety concerns.

D. Investigation

The Investigator shall have discretion and autonomy in deciding how to conduct the investigation. The Investigator may consolidate two or more Complaints filed by a Complainant or filed against a Respondent. While the investigator possesses wide discretion, the following key points will govern all investigations:

1. The parties must have an equal opportunity to present witnesses, including both fact and expert witnesses and other witnesses. Morton College will provide an equal opportunity for the parties to present both inculpatory and exculpatory evidence that is relevant and not otherwise impermissible;
2. The parties shall be provided with written notice in advance of any meeting, interview, or hearing conducted as part of the investigation or adjudication in which they are expected or invited to participate, and such notice shall provide the party with sufficient time to prepare to participate;
3. Morton College shall not restrict the parties' ability to discuss the allegations or gather and present evidence (but see Confidentiality provision below);
4. The parties must be allowed to have an advisor of their choosing present at any meeting or grievance proceeding. If a student party does not have an advisor, Morton College will provide the party with an advisor of Morton College's choice, without charge to the party; For Complaints involving a student Complainant or Respondent, Morton College must provide the parties with the same opportunities, if any, to have persons other than an advisor present during any meeting or proceeding.
5. Morton College may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.
6. The investigation shall not access or rely upon any treatment records maintained by a healthcare provider, including Morton College's student health center, unless the party provides consent; and
7. The burden of gathering evidence sufficient to reach a determination regarding responsibility rests on Morton College, not on either party.
8. Morton College will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.
9. Morton College will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

- Morton College will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence.
- Morton College provides access to an investigative report: Morton College will further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party; and
- Morton College will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures
- Morton College will provide the parties with a reasonable opportunity to review and respond to the evidence or investigative report summarizing the evidence.

The investigation phase shall be completed within forty-five (45) calendar days. The period of time for the completion of the investigation phase may be extended upon a showing of good cause and with notice being given to the parties which provides the reason for the extension. At the conclusion of the investigation, but **before** a final investigative report is completed by the Investigator, the Investigator shall simultaneously provide all parties an equal opportunity to inspect and review any evidence obtained during the investigation that is directly related to the allegations raised in a complaint ("preliminary investigative report"). The parties shall be given ten (10) calendar days to submit a written response to the Investigator which he or she shall consider before completing a final investigative report.

E. Dismissal of Complaint

A Complaint **shall** be dismissed if the conduct alleged: (a) Would not constitute Discrimination, Sex Based Harassment or Misconduct, Harassment or Retaliation even if proven; or (b) Did not occur within the Scope of Coverage of these Guidelines.

A Complaint **may** be dismissed if: (a) Title IX Coordinator obtains the complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and Title IX Coordinator determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; (b) The Respondent is no longer enrolled at Morton or attempting to participate in its educational program or activity; (c) The Respondent is no longer employed by Morton College or connected to Morton College as a contractor, consultant, vendor, volunteer or member of the Board; (d) Title IX Coordinator is unable to identify the respondent after taking reasonable steps to do so; or (e) Title IX Coordinator determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX.

Before dismissing the complaint, Title IX Coordinator will make reasonable efforts to clarify the allegations with the complainant. Upon dismissal, Morton will notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then Morton College shall notify the Respondent of the dismissal promptly following notification to the Complainant, or simultaneously if the notification is in writing. If an Investigator dismisses one or more allegations in a Complaint, the Complainant has the right to appeal such a finding as outlined in the Appeal Section. Additionally, if the Respondent has been notified of the Complaint prior to dismissal, the Respondent shall be notified of the Complainant's right to appeal. For dismissals other than those where the Respondent cannot be identified or does not participate

or employee of Morton College, Morton College must offer supportive measures to both the Complainant and the Respondent.

Morton College shall obtain the Complainant's voluntary withdrawal in writing where the Complaint involves a student Complainant or Respondent.

F. Final Investigative Report

At the conclusion of the investigation, the Investigator shall create a final investigative report that fairly summarizes the relevant evidence and makes a conclusion as to whether one or more allegations set forth in the Complaint are supported or sustained by the evidence. The final investigative report shall be simultaneously sent to the parties within fourteen (14) calendar days of the completion of the investigation phase.

If the Investigator makes a finding that one or more of the allegations set forth in the Complaint are supported or sustained by the evidence, then the parties shall be notified that a formal administrative hearing shall be scheduled with a Title IX Decision Maker.

The final investigative report shall be sent simultaneously to the parties at least ten (10) days in advance of an administrative hearing with a Title IX Decision Maker so that all parties have time to review its findings and provide written responses if desired. The parties shall be given seven (7) calendar days, post notice of final investigation report, to submit a written response to the final investigation report.

G. Decision Maker Administrative Hearing

After reviewing the parties' written responses to the investigation report, the Decision Maker will meet separately with each party to ask questions concerning the party's written response, the investigation report, and/or the evidence collected during the investigation, including questions that may bear on credibility. The Decision Maker may also meet with specific witnesses whose credibility is in dispute, and whose testimony is potentially relevant in evaluating any allegations in the Complaint, to pose questions that may bear on credibility.

Morton College's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

Procedures for the decisionmaker to evaluate the questions and limitations on questions:

Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decisionmaker will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

Refusal to respond to questions and inferences based on refusal to respond to questions: The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

Irrelevant and impermissible questions: For Complaints involving a Student Complainant or Respondent, the Decision Maker must determine whether a proposed question is relevant and not otherwise impermissible prior to the question being posed. Additionally, the Decision Maker must explain any decision to exclude a question as not relevant or otherwise impermissible.

H. Deliberation and Determination

After meeting with each party and any witnesses whose credibility is in dispute, the Decision Maker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The Decision Maker will take care to exclude from consideration any evidence that the Decision Maker determines is inadmissible. The Decision Maker will resolve disputed facts using a preponderance of the evidence (that is, "more likely than not") standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the Policy as alleged in the Complaint. In the event the Decision Maker determines that the Respondent is responsible for violating this Policy, the Decision Maker will, prior to issuing a written decision, consult with an appropriate College official with disciplinary authority over the Respondent and such official will determine any discipline to be imposed. The Decision Maker may also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing support measures or other remedies will be provided to the Complainant and other persons, as appropriate. The Decision Maker may seek legal advice from the College's in-house or outside counsel.

I. Written Determination

After reaching a determination and consulting with the appropriate College official and Title IX Coordinator, as necessary, the Decision Maker will prepare a written decision that will include:

1. A description of the alleged Sex Discrimination.
2. Information about the policies and procedures the College used to evaluate the allegations.
3. The Decision Maker's evaluation of all relevant and not otherwise impermissible evidence and determination of whether Sex Discrimination occurred.
4. Where the Decision Maker finds that Sex Discrimination occurred, discipline

- determined by the appropriate College official.
5. Whether the Complainant, Respondent, or, to the extent appropriate, other persons, will receive any ongoing Supportive Measures or other remedies as determined by the Title IX Coordinator.
 6. A description of the College's process and grounds for appeal, as specified in "Appeal."

The Decision Maker will transmit the written decision to the Title IX Coordinator and the parties. Content in the written decision regarding ongoing Supportive Measures and other remedies for the Complainant, if applicable, may be redacted from the version of the written report shared with the Respondent, to the extent necessary to comply with this Policy and FERPA. The written decision must be transmitted to the parties notifying them of whether sex discrimination occurred, including the rationale for such determination and the permissible bases for any appeal, if applicable.

Upon a determination that sex discrimination has occurred, the Title IX Coordinator must, as appropriate, coordinate the provision and implementation of remedies to the Complainant and any others who have had access to Morton College's program or activity limited or denied by the sex discrimination. Additionally, the Title IX Coordinator must, as appropriate, coordinate the imposition of disciplinary sanctions upon the Respondent and must notify the Complainant of any such sanctions. The Title IX Coordinator must also take any other appropriate prompt and effective steps to ensure the sex discrimination does not continue or recur.

Transmittal of the written decision to the parties concludes the adjudication process, subject to any right of appeal as specified in "Appeals Section." Any discipline imposed will be stayed pending the completion of any appeal. Although the length of time needed to issue the written decision will vary depending on the totality of the circumstances, the College strives to issue the Decision Maker's written decision within thirty (30) days of the Decision Maker's receipt of the final investigation report.

The determination regarding responsibility shall become final on either the date on which the parties are provided with the written determination of the Appeal, or, if no party appeals, the date on which an Appeal would no longer be considered timely.

J. Appeals

Appeals of Decision Maker's findings or complaint dismissal may be appealed equally by the parties to the Title IX Coordinator of Morton College. All Appeals must be filed within ten (10) calendar days of the Notice Date of the Decision Maker's final written determination to the Parties, appeals to the Title IX Coordinator may be made on the following grounds:

1. Procedural irregularity that affected the outcome;
2. New evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome; and
3. The Title IX Coordinator, Investigator, or Decision Maker had a conflict of interest or bias against or in favor of the complainant or respondent that affected the outcome.

Promptly upon receipt of an appeal, the Title IX Coordinator will conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. If the Title IX Coordinator determines that the appeal is not timely, or that it fails to invoke a permitted ground for appeal, the appeal officer will dismiss the appeal and provide written notice of the same to the parties.

If the appeal officer confirms that the appeal is timely and invokes at least one permitted ground for appeal, the appeal officer will provide written notice to the other party that an appeal has been filed and that the other party may submit a written opposition to the appeal within seven (7) calendar days.

If a party appeals and one of the above appeal grounds is met, Morton College will:

1. Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
2. Implement appeal procedures equally for the parties;
3. Ensure that the Appellate Decision Maker did not take part in an investigation of the allegations or dismissal of the complaint;
4. Ensure that the Appellate Decision Maker has been trained consistent with the Title IX regulations;
5. Communicate to the parties in writing that Morton College will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Notify the parties in writing of the result of the appeal and the rationale for the result.

All Appeals must be served on the opposing party. The opposing party has the right to file a Response to the Appeal within seven (7) calendar days after receipt. The Response to the Appeal must, likewise, be served on the opposing party. The party that filed the Appeal shall have seven (7) calendar days to file a Reply. The Reply must be served on the opposing party.

The Appellate Decision Maker shall simultaneously issue a decision as to whether the Appeal has been granted or denied within thirty (30) calendar days after the last day on which a party may file a Response or Reply. The decision of the Title IX Coordinator and Appellate Officer are final.

K. Time Frames

All periods of time established herein for the completion of the any phase of the grievance procedures may be extended upon a showing of good cause and with notice being given to the parties which provides the reason for the extension.

VI. POSSIBLE RANGE OF DISCIPLINE

Employees who are found to have violated the Comprehensive Non-Discrimination, Sex Based Harassment or Misconduct, Harassment and Retaliation Policy are subject to disciplinary action up to and including termination of employment. The range of discipline shall be governed by

applicable collective bargaining agreements or Morton College policies or procedures.

Students who are found to have violated the Comprehensive Non-Discrimination, Sex Based Harassment or Misconduct, Harassment and Retaliation Policy are subject to disciplinary action up to and including expulsion. The range of discipline shall be governed by the Student Handbook and Student Code of Conduct.

A party, witness, or any other individual participating in the grievance procedures may not be disciplined for making a false statement or for engaging in consensual sexual conduct based solely on the determination of whether sex discrimination occurred.

VII. PROHIBITION ON ALL FORMS OF RETALIATION

Morton College shall not tolerate any form of retaliation by any party against anyone for exercising their rights under the Non-Discrimination, Sex Based Harassment or Misconduct, Harassment or Retaliation Policy or these Guidelines.

Morton College prohibits all forms of retaliation against any individual for exercising their rights under Title IX, including the participation in or refusing to participate in the filing of a complaint, the investigation, or any proceeding or hearing covered by these Guidelines.

VIII. CONFIDENTIALITY

All documentation obtained and produced in accordance with these Guidelines shall be considered confidential to the full extent of applicable law and regulations that govern Morton College. Moreover, neither the Investigator nor Decision Maker shall access or rely upon any treatment records maintained by a healthcare provider, including Morton College's student health center, unless the party provides written consent. Morton College shall keep confidential the identity of any student who has made a report or complaint under these Guidelines, any student-complainant, and any student-witness, except as may be permitted by state or federal laws and regulations that govern Morton College.

Additionally, Morton College shall take reasonable steps to protect the privacy of the parties and witnesses, provided that such steps do not restrict the ability of the parties to obtain and present evidence or otherwise prepare for and participate in the grievance procedure.

Morton College shall take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through grievance procedures. However, such information and evidence may be disclosed for administrative proceeding or litigation related to the Complaint.

IX. DISCRETION IN APPLICATION

Morton College retains discretion to interpret and apply this Policy in a manner that is not clearly unreasonable, even if the College's interpretation or application differs from the interpretation of the parties. Despite the Colleges' reasonable efforts to anticipate all eventualities in drafting this Policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express language, in which case the College retains discretion to

October 10, 2024

respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable. The provisions of this Policy and corresponding procedures referenced herein are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the College retains discretion to revise this Policy and Policy revisions to an active case provided that doing so is not clearly unreasonable.