

Complaints of sexual misconduct and retaliation will be investigated and resolved in accordance with this policy. Because such allegations can sometimes raise novel issues and involve competing interests, the College reserves discretion to take reasonable actions to address those issues in a manner consistent with the spirit of this policy and which preserves fairness for both parties and maintains the integrity in the investigation and resolution processes. The College uses the preponderance of the evidence standard to determine responsibility of violations of this policy.

Advisor/Legal Counsel

Complainants and respondents may be accompanied by one advisor throughout the investigation and any hearing process. An advisor is a support person who is present to provide support to a complainant or respondent throughout an investigation and/or hearing. An advisor may not speak, write, or otherwise communicate with an investigator, hearing officer or panel on behalf of the complainant or respondent and, because these are internal College proceedings, may not function as legal counsel.

To enhance the integrity of the investigation process and help ensure fairness for all parties, advisors cannot be a witness or party in the matter or a related matter, a family member of the complainant or respondent, or an attorney. In matters in the Dean of Students' Office, advisors must also be members of the Midstate community.

However, in any matter involving a complaint of sexual assault, stalking, or dating or domestic violence, the advisor may be any person of the party's choosing, including an attorney. In this case, the advisor is still limited to the supportive and not participatory role described above. Advisors who do not abide by these guidelines may be excluded from the process.

Privacy and Sharing of Information

The College considers complaints and investigations conducted under this Policy to be private matters for the parties involved. For that reason, the College will protect the identity of persons involved in reports of sexual misconduct to the best of its ability. The College will only share personally identifiable information with persons with a need-to-know in order for the College to investigate and respond or to deliver resources or support services. The College does not publish the names nor post identifiable information about persons involved in a report of sexual misconduct in the College Daily Crime Log or elsewhere online. The College does not confirm to outside parties the identity of an individual who may be involved in a report of sexual misconduct without that individual's consent. However, the College cannot promise complete confidentiality or privacy in the handling of sexual misconduct reports or complaints.

Most situations require the disclosure of the complainant's identity to those involved in the investigation in order to fully investigate the matter and/or to enable the respondent to fully respond to the allegations. When individuals report allegations of sexual misconduct to the College and do not consent to the disclosure of their names and/or do not disclose the identity of the alleged offenders or identifiable information about the alleged offenders, the College's ability to respond to the complaints may be limited. In cases where an individual reporting sexual misconduct requests anonymity or does not wish to proceed with an investigation, the College, will attempt to honor that request but, in some cases, the Title IX Coordinator, Deputy Title IX Coordinator, or Dean of Students may determine that the College needs to proceed with an investigation based on concern for the safety or well-being of the broader College community (e.g., risk of future acts of sexual violence or a pattern of sexual misconduct). Midstate reserves the right to take appropriate action in such circumstances, including in cases when the individual reporting the misconduct is reluctant to proceed.

All participants in an investigation of sexual misconduct will be informed that confidentiality helps enhance the integrity of the investigation, protect the privacy interests of the parties and protect the participants from statements that might be interpreted to be retaliatory or defamatory. For these reasons, the complainant and respondent will be asked to keep the information related to the investigation private to the extent consistent with applicable law. Witnesses and advisors will be directed to maintain complete confidentiality.

Upon the conclusion of an investigation, the complainant and respondent will be notified in writing, at the same time, of the outcome of the investigation, including whether the alleged conduct was found to have occurred and any sanctions imposed on the respondent that directly relate to the complainant. For the same reasons noted above, the College encourages the parties to maintain the confidentiality of this communication.

Investigations and Resolution of Complaints against Faculty, Staff and Third Parties

The College's Title IX Coordinator, Title IX Investigator, or designee, investigates complaints of sexual misconduct, including complaints of sexual harassment and sexual assault, brought against faculty, staff and third parties.

When a complaint is received, the Title IX Coordinator, Title IX Investigator, or designee interviews parties and witnesses and reviews any relevant documents and evidence. Once an investigation is completed, the investigator makes findings on whether the preponderance of the evidence indicates that the respondent violated the College's Sexual Misconduct Policy. The investigator advises the parties of the findings in writing and communicates findings and recommendations to other College offices as needed for resolution and determination of sanctions or corrective actions. Most investigations are completed within 60 days. Parties may file an appeal of an investigator's findings.

Investigations and Resolution of Reports against Students

The College's Dean of Students, Deputy Title IX Coordinator, Title IX Investigator, or designee, investigates reports of alleged violations of this policy by Midstate students.

When a report is received, the Dean of Students or designee will conduct an initial inquiry to determine the resolution plan. If action is required to remediate the impact of the alleged policy violation, the Dean of Students will take interim actions or make accommodations as appropriate. If the report has not been resolved informally, the matter will then be assigned to an investigator who will gather full details related to the report. The investigator will interview the parties and relevant witnesses and review relevant documents and evidence.

Resolution of these reports is determined through the Student Affairs' and Dean's Offices. If it is determined by the Dean of Students that the alleged policy violation has the potential to result in a separation from the College (e.g., suspension, exclusion, expulsion, degree revocation), the investigator will complete an investigative report that includes details of the investigation and the investigator's findings of fact. The report will be provided to the complainant reporting the misconduct, the respondent, and the College's hearing panel. A panel hearing will be held, in which the parties will have the opportunity to meet with the panel individually. The panel will determine responsibility for policy violations and, if applicable, sanctions. If it is determined by the Dean of Students that the alleged policy violation does not have the potential to result in separation from the College, it will be resolved through an Administrative hearing.

Most investigations are completed within 60 days. There is a review/appeals process available to both complainants and respondents in all cases.

Complaints Regarding the Specific Allegations of Sexual Assault, Stalking, Dating or Domestic Violence

Individuals who report to the Title IX Coordinator, Deputy Title IX Coordinator, Dean of Students, or Campus Security that they have experienced sexual assault, stalking, or dating or domestic violence, whether the offense occurred on- or off-campus, will be provided with a written explanation of their rights, options, and resources, including a link to this policy. Specifically, this notice will include information about:

- ❖ Services and resources related to counseling, health and mental health, legal, and student financial aid.
- ❖ Interim protective measures and accommodations and how to request them during the course of the investigation.
- ❖ The procedures for institutional disciplinary action in cases of sexual assault, dating or domestic violence and stalking.
- ❖ Preserving evidence, reporting to law enforcement, being assisted by College officials in reporting to law enforcement, seeking a protective order, and confidentiality.

Educational Training Awareness

The College provides annual training to Title IX Coordinators, Investigators, Campus Security, and Dean of Students on issues related to sexual misconduct, investigation, and resolution.

THE CLERY ACT

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) is a federal law and accompanying regulations that require colleges and universities to disclose certain timely and annual information about campus crime and security and safety policies. Compliance with the Clery Act is a condition for colleges, like Midstate, that participate in the federal student aid program and is administered by the U.S. Department of Education's Federal Student Aid Office. As a part of its Clery program, Midstate College collects and publishes statistical information on crimes occurring on and around campus as well as relevant crime and safety information.