



**POLICIES**

Effective Date: May 1, 2014

Retired:

Revised:

Approved by: A. Cherrie Epps, Ph.D. President and Chief Executive Officer

Subject: General Counsel/Compliance - Sexual Misconduct Policy and Grievance Procedures

**PURPOSE:**

The policy was created and approved to comply with the requirements of Title IX and the Violence Against Women Act; to define what forms of sexual conduct is prohibited by Meharry Medical College ("MMC"); to set forth the manner in which allegations of sexual misconduct will be addressed by the College; and to provide resources for victims and those accused of sexual misconduct.

**SCOPE:**

This policy applies to all students, administrators, faculty and staff of MMC.

**INTRODUCTION:**

Meharry Medical College (MMC) defines sexual misconduct as any wrongdoing of a sexual nature. This encompasses sexual exploitation, harassment, violence, non-consensual sexual contact, and non-consensual sexual intercourse. MMC considers sex discrimination in all its forms to be a serious offense. Sexual Misconduct violates MMC's sexual discrimination policy and Federal Civil rights laws. MMC is committed to creating a safe and responsible environment by fostering a community that promotes prompt reporting of all types of Sexual Misconduct and fair and timely resolutions.

As a recipient of Federal funds, MMC is required to comply with Title IX of the Higher Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs or activities. To ensure compliance with Title IX and other federal and state civil rights laws, MMC has developed policies and procedures that prohibit sex discrimination in all of its forms. This policy extends to employment with and admission to the College. Consistent with due process, all accused are presumed innocent until proven otherwise under this Policy.

**DEFINITIONS:**

**Definition of Prohibited Conduct**

**A. Harassment**

1. MMC defines **harassment** as any unwelcome conduct based on sex or on gender stereotypes as verbal or physical conduct based on a person's race,

**Subject: Sexual Misconduct Policy and Grievance Procedures**

color, religion, creed, ethnicity, gender or gender identity, age, sexual and affection orientation/associations, genetic information or mental/physical disabilities that is sufficiently severe, pervasive, persistent or patently offensive that it has the effect of unreasonably interfering with that person's work or academic performance, or that creates an intimidating, hostile, or offensive working, educational, or living environment, from both a subjective (the complainant's) and an objective (any reasonable person's) viewpoint.

2. MMC defines **non-discriminatory harassment** as verbal or physical conduct that is sufficiently severe, pervasive, persistent or patently offensive that it has the effect of unreasonably interfering with that person's work or academic performance, or that creates an intimidating, hostile, or offensive working, educational, or living environment, from both a subjective (the complainant's) and an objective (any reasonable person's) viewpoint.
3. MMC defines **sexual harassment** as unwelcome verbal or physical conduct of a sexual nature that has the effect of unreasonably interfering with an individual's work or academic performance or that creates an intimidating, hostile, or offensive working, educational, or living environment. A form of quid pro quo (this for that) sexual harassment exists when submission to or rejection of unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature results in adverse educational or employment action, or the threat of such adverse action, or limits or denies an individual's educational or employment access, benefits or opportunities.
4. MMC defines **retaliatory harassment** as verbal or physical conduct that occurs in response to a complaint of harassment. Zero tolerance extends to those who retaliate for complaints of harassment. MMC views retaliatory harassment to be just as severe as the initial harassment itself.

## **B. Sexual Misconduct**

Sexual Misconduct is a broad term encompassing sexual exploitation, harassment, non-consensual sexual contact and non-consensual sexual intercourse. Sexual Misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual Misconduct can be committed by men or by women, and it can occur between people of the same or different sex.

In order for individuals to engage in sexual activity of any type with each other, there must be clear consent. Consent is permission, freely given by word or action, by both participants in a sexual activity. Since two people may experience the same interaction in different ways, it is the responsibility of both parties to make certain that the other has consented before engaging in any sexual activity. Silence cannot be assumed to show consent. Consent to some form of sexual activity cannot be

**Subject: Sexual Misconduct Policy and Grievance Procedures**

automatically taken as consent to any other sexual activity and consent may be withdrawn at any time. Persons using alcohol or other drugs are considered unable to give consent if they cannot appreciate the nature and implications of a sexual interaction. All individuals who consent to sex must be able to understand what they are doing. In order to give consent, one must be of legal age, which is 18 in the state of Tennessee.

Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercive behavior differs from seductive behavior in the type of pressure someone uses to get consent from another. When someone makes clear that he or she does not want sex, wants it to stop, or does not wish to go past a certain point of sexual interaction, continued pressure beyond that point is coercive.

Persons who have sexual activity with someone whom they know to be - or could reasonably be expected to know to be - mentally or physically incapacitated (substantially impaired by alcohol or other drug use or unconscious) are in violation of this policy. This policy also covers someone whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of so-called "date rape" drugs. Possession, use and/or distribution of any of these substances (including Rohypnol, Ketamine, GHB, Burundanga and others) is prohibited, and administering any of these drugs to another for the purpose of inducing incapacity is a violation of this policy.

1. Non-Consensual Sexual Contact is any intentional sexual touching, however slight, with any body part or object, by a man or a woman upon a man or a woman, without effective consent.
2. Non-Consensual Sexual Penetration refers to any sexual penetration (anal, oral, or vaginal), however slight, with any body part or object by a man or woman upon a man or woman, without effective consent.
3. Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute another form of sexual misconduct. Examples of sexual exploitation include, but are not limited to, prostitution, non-consensual video or audio-taping of sexual or other private activity, exceeding the boundaries of consent (e.g., permitting others to hide in a closet and observe consensual sexual activity, videotaping of a person using a bathroom), engaging in voyeurism, or engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of such infection.

**Subject: Sexual Misconduct Policy and Grievance Procedures**

### **Consensual Relationships**

MMC does not intrude upon personal relationships that do not violate the policies of the College, cause harm to the safety of the MMC community, or increases the risk of harm to the safety and well-being of the MMC community. Consensual romantic or sexual relationships in which one party retains a direct supervisory or evaluative role over the other party are unethical, create a risk for real or perceived coercion, and are expressly a violation of the College's Amorous Relationship Policy. Therefore, person with direct supervisory, evaluative, grading, or academic advising responsibilities who are involved in such relationships must bring those relationships to the attention of their supervisor or the Deans (if relationship involves a student), and will likely result in the necessity to remove the employee from the supervisory, evaluative, grading, or academic responsibilities.

### **PROCEDURE:**

#### **Reporting Guidelines**

##### **A. Reporting an Incident of Sexual Misconduct**

Employees and students have a duty to report violations of this policy immediately upon receiving a complaint for sexual misconduct or observing or learning of conduct that is reasonably believed to be in violation of this policy. The Office of Human Resources (615.327.6336), the Office of the Dean in his/her schools; Office of Student Affairs (615.327.6435) the General Counsel's Office (615.327.6102), the Title IX Coordinator (615.327.6552) and Campus Safety & Security (615.327.6254) are equipped to receive such reporting. The Office of General Counsel shall be contact for any allegation(s) involving a faculty member.

##### **B. Other Reporting Options**

In addition to the duty to report sexual misconduct to the proper College representatives, in some circumstances there is a duty to report allegations of criminal conduct to law enforcement. A victim of sexual misconduct has the option to report the incident to the appropriate local law enforcement for the purpose of filing a criminal complaint and/or seeking and enforcing a no contact, restraining or similar court order and has the right to be assisted by the College in exercising this option. Please call 911 or the Metro Nashville Sexual Abuse Unit at (615.862.7540).

A criminal investigation into an allegation of sexual misconduct does not relieve MMC of its duty and authority to conduct its own review of a complaint. The College will not

**Subject: Sexual Misconduct Policy and Grievance Procedures**

wait for the conclusion of a criminal investigation to begin its own prompt investigation and resolution of an allegation of sexual misconduct. Conduct that may not be subject to criminal prosecution or sanctions may still be addressed through the College's disciplinary process, and/or findings of "not guilty" in a criminal case does not preclude a finding of responsibility in a campus disciplinary proceeding for violating MMC policy. Victims are advised to preserve physical evidence to support their complaint in the event they wish to pursue criminal actions.

### **Retaliation**

MMC will take steps to prevent and address any form of retaliation against the complainant. Information about the College's stance on retaliation can be found at <http://intranet.mmc.edu/policies/policies/compliance/nonretaliationreporting.pdf>

### **Rights Afforded to Sexual Assault Complaints**

Victims of sexual assault are entitled to specific rights, these rights include:

- The right to a prompt and equitable investigation and resolution of a complaint
- The right to file a complaint with the appropriate local law enforcement authorities for the purpose of filing a criminal complaint and/or seeking enforcing a no contact, restraining or similar court order.
- The right to be assisted by the College in seeking assistance from the local law enforcement.
- The right to request and receive a change in his/her living situation if such a change is reasonably available.
- The right to request and receive a change in his/her academic situation if such a change is reasonable.
- The right to be referred to on and off campus counseling, mental health or other student services for victims of sex offenses.
- The right to file a complaint on campus and to avail him/herself of the process for doing so including, but not limited to, adequate reliable, and impartial investigation of the complaint; an equal opportunity to present relevant witnesses and other evidence;
- The Family Educational Rights and Privacy Act (FERPA) permits a school to disclose to the student victim information about the sanction imposed upon a student who was found to have engaged in volatile behavior when the sanction directly relates to the victim. Furthermore, when the conduct involves allegations of a crime of violence or a non-forcible sex offense, a post-secondary institution is required to simultaneously provide written notification of the final results of a disciplinary proceeding against the alleged perpetrator to both the victim and the alleged perpetrator, regardless of whether the institution concluded that a violation was committed.

**Subject: Sexual Misconduct Policy and Grievance Procedures**

### **Resolution of Sexual Misconduct Complaints**

MMC will act promptly in response to information that an incident of an assault, harassment or other form of sexual misconduct has occurred. Any conduct that is in violation of the Sexual Misconduct policy will be investigated and addressed in a timely manner.

#### **A. Confidentiality**

If a complainant request confidentiality or asks that the complaint not be pursued, MMC will take all reasonable steps to conduct the investigation and respond to the complaint within the conditions requested. If the complainant insists that their name or other identifiable information not be disclosed to the alleged perpetrator, the investigator must inform the complainant that MMC's ability to respond may be limited due to the restriction. MMC must evaluate all requests in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. Therefore, all requests for confidentiality will be weighed against the following factors:

- The seriousness of the alleged harassment
- The complainant's age
- Whether there have been other complaints about the same individual; and
- The alleged perpetrators' rights to receive information about the allegation under FERPA.

If MMC cannot ensure confidentiality, the investigator will inform the complainant. If disciplinary action cannot be taken against the alleged perpetrator because of the complainant's insistence of confidentiality, MMC may pursue other steps to limit the effects of the alleged conduct and prevent its recurrence.

#### **B. Investigation of Sexual Misconduct**

**Step One: Investigation.** Any individual can contact any of the designated offices under "Reporting Guidelines" to report allegations of sexual misconduct. The report is given to a designated Title IX coordinator to investigate. The Title IX investigator will conduct a prompt investigation. All initial investigations are thorough and impartial and conducted in a manner in which the Title IX investigator deems appropriate. If warranted, preliminary administrative actions (e.g. interim suspension, restricted access to campus facilities, no contact orders, academic modification, etc.) may be taken to preserve the safety and continuity of the College.

**Step Two: Informal Resolution.** With the consent of the complainant and the alleged perpetrator, and if the Title IX coordinator in consultation with the Office of General Counsel and the appropriate Office of the Dean, deems the circumstances to

**Subject: Sexual Misconduct Policy and Grievance Procedures**

warrant doing so, a matter may be resolved through non-disciplinary interventions (e.g., educational, counseling, academic accommodations). A complainant has the right to end the informal process at any time and begin a formal student conduct proceeding. Mediation, even on a voluntary basis, is not an appropriate means of resolving a sexual assault complaint.

**Step Three: Formal Student Conduct Action (if initiated)**

Should informal resolution be inappropriate or unattainable, the matter will be referred to MMC's Student Disciplinary Committee (SDC). The Committee is composed of two faculty members from each school and one student. Additionally, for Title IX matters only, a Title IX coordinator will be a non-voting member of the Committee.

**C. Standard of Evidence**

MMC utilizes a standard of preponderance of the evidence (i.e. it is more likely than not that the sexual assault, harassment or another form of sexual misconduct occurred) when reviewing a complaint.

**D. Disciplinary Sanctions**

The specific sanctions available to the SDC many differ depending on the circumstances of the matter being addressed. In general, however, sanctions imposed upon students determined to have violated this policy can include a range of sanctions including, but not limited to, warning, censure, education/counseling, disciplinary probation, suspension or dismissal.

**E. Notification**

When the conduct involves allegations of a crime of violence or a non-forcible sex offense, MMC is required to simultaneously provide written notification of the final results of a disciplinary proceeding against the alleged perpetrator to both the victim and the alleged perpetrator, regardless of whether MMC concluded that a violation was committed.

**F. Support Resources**

Many services, including resources for medical and emotional wellbeing, are available to victims of sexual assault, harassment and other forms of sexual misconduct. Contact information and general advice on how to seek assistance for yourself or another person who has been a subject of sexual assault, harassment or any other sexual misconduct can be obtained from one of the offices listed below.

Title IX Coordinator Offices

Office of the General Counsel: 615.327.6552 or 615.327.6921

**Subject: Sexual Misconduct Policy and Grievance Procedures**

Registrar's Office/Student Services 615.327.6806

Office of Human Resources: 615.327.6336

**Support Resources**

Campus Security- 615.327.6254

Counseling Services and Office of the Chaplain: 615.327.6975

**Meharry Medical College Hotline Number: 1.888.695.1534**

Metro Nashville Police- Domestic Violence Unit: 615.880-3000 (8am-10pm) and 615.862.8600 (after 10pm)

Tennessee Domestic Violence Hotline at 1-800-356-6767

YWCA Crisis and Information Line: (615) 242-1199 or toll free 1-800-334-4628.

**SANCTIONS**

Against Students: Disciplinary sanctions for student violations of this policy will be imposed in accordance with the "Student Professional Code of Conduct. Sanctions may include expulsion.

Against Employees: Disciplinary sanctions for employee violations of this policy, which may range from a disciplinary warning to termination from the College, will be imposed in accordance with applicable College policies.