 POLICY / PROCEDURE	Effective Date:	10.18.24	Review Dates:	Revision Dates:
	Approved By:	<i>Sarah Kottich</i> 10/21/24		
	Department:	Human Resources		
	Subject: Title IX Policy for Sex-Based Harassment Involving a Student – D2			Page 1 of 30

Policy:

Nondiscrimination Policy Statement: Millikin University does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

Purpose:

Millikin University takes all reported discrimination on the basis of sex seriously. Millikin University will promptly discipline any individuals within its control who are found responsible for violating this Policy.

Procedures:

Applicability: This Policy applies as follows:

- a. **Students:** This Policy applies to sex discrimination in the form of sex-based harassment when at least one of the parties in the allegations is a student of Millikin University and when the conduct falls within the scope of definitions and application of section 1.15 and 2.¹
- b. **Employees:** This Policy applies to sex discrimination in the form of sex-based harassment when one party in the allegations is a student of Millikin University and another party involved is an employee of Millikin University. This conduct must also fall within the scope of the definitions and application of section 1.15 and 2.²

1.4 Title IX Coordinator and Title IX Designees: The Title IX Coordinator is the Millikin University administrator who oversees Millikin University’s compliance with Title IX. The Title IX Coordinator is responsible for the response to notifications of discrimination on the basis of sex. The Title IX Coordinator is available to discuss the grievance procedures, coordinate supportive measures, modifications related to pregnancy and related conditions, explain Millikin University’s policies

¹ All other sex-discrimination that is not sex-based harassment involving a student will be resolved using the Title IX Policy for Sex Discrimination Except for Sex-Based Harassment Involving a Student.

² All other sex-discrimination that is not sex-based harassment involving a student will be resolved using the Title IX Policy for Sex Discrimination Except for Sex-Based Harassment Involving a Student.

and procedures, and provide education on relevant issues. The Title IX Coordinator may designate other employees to facilitate these responsibilities.

Individuals may contact the Title IX Coordinator or designees with questions.

The contact information for the Title IX Coordinator and designees is as follows:

Todd Ray, Title IX Coordinator

Email: taray@millikin.edu

Office: Schilling 205

Phone: 217-362-6416

Wallace Southerland, VP of Student Affairs and Deputy Title IX Coordinator

Email: wsoutherland@millikin.edu

Office: University Commons, 3rd Floor

Phone: 217-424-6395

Brittany Gates, Title IX Support

Email: bgates@millikin.edu

1.5 Communication: Millikin University will use electronic mail (email) for purposes of communication under this Policy.

1.6 Free Speech: Constitutionally protected expression cannot be considered discrimination on the basis of sex under this policy.

1.7 Dissemination of Policy of and Notice of Nondiscrimination: Millikin University will publish the Notice of Nondiscrimination on its website and in each handbook, catalog, announcement, bulletin, and application form made available to students, parents/guardians, and employees, or which are otherwise used in connection with the recruitment of students. This posting will include a link to this policy and reporting options.

1.8 Effective Date: The effective date of this policy is October 18, 2024. Matters that occurred prior to October 18, 2024 will be resolved using the policy and procedures in place at the time of the alleged event.

1.9 False Statements Prohibited: The Millikin University Student Handbook prohibits intentionally furnishing false information to a university official; forgery; unauthorized alteration or unauthorized use of any University document, record (including computer records), or instrument of identification. Any student found to have knowingly furnished false information to a university official may be subject to discipline pursuant the Student Handbook. Millikin's Employee Handbook prohibits providing false information, and an employee may be subject to disciplinary action under the Employee Handbook if found to have provided false information.

1.10 Amnesty: Reporting discrimination on the basis of sex and other inappropriate conduct is encouraged at Millikin University. Thus, it is imperative that parties and witnesses share information without fear of potential consequences for certain violations of the student code of conduct including, but not limited to, underage drinking or possession or use of a controlled substance, that is revealed in the course of such a report, unless the University determines that the violation was egregious, including without limitation an action that places the health or safety of any other person at risk .

Millikin University offers parties and witnesses amnesty from such violations, but individuals may be responsible for other, more serious conduct that does harm or place the health or safety of any other person at risk. After granting Amnesty, Millikin University may offer educational or therapeutic opportunities for individuals in lieu of a finding of responsibility or punitive sanctions with the student regarding alcohol or controlled substances. This Section does not apply to reports to the police; rather, it applies only to discipline for violations of Millikin University's Code of Conduct.

1.11 Other Millikin University Policies: This Policy takes precedence over other Millikin University policies and procedures concerning discrimination on the basis of sex in the event of a conflict.

1.12 Modification and Review of this Policy: Millikin University reserves the right to modify this Policy to take into account applicable legal requirements. Millikin University will regularly review this Policy to determine whether modifications should be made.

1.13 Additional Code of Conduct or Millikin University Policy Violations: Alleged violations of the student or employee Code of Conduct and/or other policies that arise from the same events as alleged discrimination on the basis of sex under this Policy will be investigated and resolved under the grievance procedures in this Policy unless the sex discrimination has been dismissed under Section 5.4 of this Policy or referred to the Title IX Policy for Sex Discrimination Except for Sex-Based Harassment Involving a Student. Conduct dismissed as sex discrimination can be referred to the Student Code of Conduct or Employee Handbook.

1.14 Standard of Proof: The burden rests with Millikin University to gather and evaluate evidence to determine that a violation of this policy occurred by a Preponderance of the Evidence (More likely than not).

1.15 Application: This Policy applies to sex discrimination in the form of sex-based harassment involving a student occurring under Millikin University's education program or activity in the United States. Conduct that occurs under a Millikin University's education program or activity includes but is not limited to conduct that occurs in a building or vehicle owned or controlled by a student organization that is officially recognized by Millikin University and conduct that is subject to Millikin University's disciplinary authority. Millikin University 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 of Millikin University's education program or activity or outside the United States.

1.16 Prohibited Disclosure of Personally Identifiable Information: Millikin University will not disclose personally identifiable information obtained in the course of complying with this policy and/or grievance procedures except in the following circumstances:

- (1) When Millikin University has obtained prior written consent from a person with the legal right to consent to the disclosure;
- (2) When the information is disclosed to an authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- (3) To carry out the purposes of this policy and procedure including action taken to address conduct that reasonably may constitute sex discrimination under this policy in Millikin University's education program or activity;
- (4) As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
- (5) To the extent such disclosures are not otherwise in conflict with Title IX or this policy when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

Section 2: Definitions

2.1 Definitions Related to Prohibited Conduct: This policy applies to sex discrimination in the form of sex-based harassment that involves a student as at least one party in the allegations. Other forms of sex discrimination, sex-based harassment involving only employee parties, and retaliation will be resolved using the Title IX Policy for Sex Discrimination Except for Sex-Based Harassment Involving a Student.

2.1.1 Sex-Based Harassment: 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 Millikin University to provide an aid, benefit, or service under Millikin University'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 harassment: 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 Millikin University's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the Complainant's ability to access Millikin University's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within Millikin University'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 Millikin University's education program or activity.

(3) Specific offenses: Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined in this Policy.

2.1.2 Sexual Assault: An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including Rape, Fondling, Incest, and Statutory Rape as defined in this Policy.

2.1.3 Rape³: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the victim.

³ Rape as defined in the Uniform Crime Reporting Program (UCR) includes:

Forcible Rape: The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault with and Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

2.1.4 Fondling⁴: The touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of his/her age or because of his/her temporary or permanent mental Incapacity.

2.1.5 Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

2.1.6 Statutory Rape: Sexual intercourse with a person who is under the statutory age of Consent.

2.1.7 Dating Violence: 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:
 - (i) The length of the relationship;
 - (ii) The type of relationship; and
 - (iii) The frequency of interaction between the persons involved in the relationship;

2.1.8 Domestic Violence: 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 Millikin University, 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.

2.1.9 Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's safety or the safety of others; or

⁴ Fondling is referred to as Forcible Fondling in the UCR.

(2) Suffer substantial emotional distress.

2.1.10 Retaliation, including Peer Retaliation: Intimidation, threats, coercion, or discrimination against any person by Millikin University, a student, or an employee or other person authorized by [Millikin University to provide aid, benefit, or service under Millikin University's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, including in an informal resolution process, in grievance procedures, and in any other actions taken by Millikin University under this policy. Nothing in this definition or this Policy precludes Millikin University from requiring an employee or other person authorized by Millikin University to provide aid, benefit, or service under Millikin University's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.

2.2 Definitions Related to Sex-Based Harassment: Consent, Course of Conduct, Incapacitation, On the Basis of Sex; Reasonable Person, Substantial Emotional Distress

2.2.1 Consent is affirmative, conscious, voluntary, and revocable. Consent to sexual activity requires of each person an affirmative, conscious, and voluntary agreement to engage in sexual activity.

It is the responsibility of each person to ensure they have the affirmative Consent of the other to engage in the sexual activity. Lack of protest, lack of verbal or physical resistance, or silence do not, alone, constitute Consent in general or as a result of the use of threat or force. Affirmative Consent must be an ongoing and freely given agreement to sexual activity and can be revoked at any time during sexual activity.

The existence of a dating relationship or past sexual relations between the Complainant and Respondent will never by itself be assumed to be an indicator of Consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of Consent to prior conduct). A person consenting to sexual activity with one person does not constitute Consent to future sexual activity. A person's manner of dress does not constitute Consent.

The Respondent's belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the decisionmaker will consider all of the facts and circumstances the Respondent knew, or reasonably should have known, at the time. In particular, the Respondent's belief is not a valid defense where:

- (1) The Respondent's belief arose from the Respondent's own intoxication or recklessness;
- (2) The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or

(3) The Respondent knew or a reasonable person should have known that the Complainant was unable to Consent because the Complainant was incapacitated, in that the Complainant was:

- asleep or unconscious
- unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication
- unable to communicate due to a mental or physical condition
- under the age of consent.

2.2.2 Course of Conduct: Two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

2.2.3 Incapacitation: A person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of alcohol or other drugs such that the person does not have:

(1) control over their body, is unaware that sexual activity is occurring, or

(2) their mental, physical or developmental abilities render them incapable of making rational informed decisions.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking, using drugs, or taking medication.

A person violates this policy when they engage in sexual activity with another person who is Incapacitated and a Reasonable Person in the same situation would have known that the person is Incapacitated. Incapacitation can be voluntary or involuntary. Signs of Incapacitation may include, without limitation: sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances.

2.2.4 On the Basis of Sex (Scope): Includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

2.2.5 Reasonable Person: A reasonable person under similar circumstances and with similar identities to the victim.

2.2.6 Substantial Emotional Distress: Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

2.3 Other Defined Terms

2.3.1 Business Day: Any weekday not designated by Millikin University as a holiday or administrative closure day. When calculating a time period of Business Days specified in this Policy, the Business Day of the event that triggers a time period is excluded.

2.3.2 Complainant: A student or employee of Millikin University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or a person other than a student or employee of Millikin University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in Millikin University's education program or activity.

2.3.3 Complaint: An oral or written request to Millikin University that objectively can be understood as a request for Millikin University to investigate and make a determination about alleged discrimination.

2.3.4 Confidential Employee:

(1) An employee of Millikin University whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this Policy, 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 Millikin University whom Millikin University has designated as confidential under this Policy 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 post-secondary 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.

2.3.5 Confidential Advisor: means a person who is employed or contracted by a higher education institution to provide emergency and ongoing support to student survivors of sexual violence with the training, duties, and responsibilities described in Section 20 of the Illinois Preventing Sexual Violence in Higher Education Act.

2.3.6 Disciplinary Sanctions: Consequences imposed following a determination under Title IX that the Respondent violated Millikin University's prohibition on sex discrimination.

2.3.7 Education Program or Activity: Any academic, extracurricular, research, occupational training, or other education program or activity.

2.3.8 Impermissible Evidence: The following information must not be discussed, otherwise used, accessed or considered, even if relevant, except by Millikin University to determine whether an exception exists.

(1) Evidence that is protected under a privilege as 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;

(2) A party's or witness' 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 Millikin University obtains that party's or witness' voluntary, written consent for use in Millikin University's grievance procedures; and

(3) 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.

2.3.9 Party: A Complainant or Respondent.

2.3.10 Pregnancy or Related Conditions:

(1) Pregnancy, childbirth, termination of pregnancy, or lactation;

(2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

(3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

2.3.11 Relevant: Related to the allegations of sex discrimination under investigation as part of the grievance procedures. 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.

2.3.12 Remedies: Measures provided, as appropriate, to a Complainant or any other person

Millikin University identifies as having had their equal access to Millikin University's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to Millikin University's education program or activity after Millikin University determines that sex discrimination occurred.

2.3.13 Respondent: A person who is alleged to have violated Millikin University's prohibition on sex discrimination.

2.3.14 Student: A person who has gained admission.

2.3.15 Student with a Disability: A student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

2.3.16 Supportive Measures: Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

(1) Restore or preserve that party's access to Millikin University's education program or activity, including measures that are designed to protect the safety of the parties or Millikin University's educational environment; or

(2) Provide support during Millikin University's grievance procedures or during the informal resolution process.

Section 3: Reporting Sex Discrimination and Preservation of Evidence

3.1 Reporting to Millikin University

3.1.1 Reporting to/ Notifying the Title IX Coordinator: Reports of Sex Discrimination may be made to the Title IX Coordinator. The Title IX Coordinator may be notified at any time by email, phone, online form or mail. Notifications may be made in person during business hours. Reports to the Title IX Coordinator can be made by an involved party, third party, or bystanders. The Title IX Coordinator will promptly respond by offering supportive measures to the Complainant regardless of whether a complaint is initiated.

3.1.2 Reporting to All Employees Who are Not Designated as Confidential Employees: If any employee who is not designated as a confidential employee has information about conduct that may reasonably constitute sex discrimination, the employee must notify the Title IX Coordinator.

3.1.3 Reporting to Confidential Employees: Confidential employees at Millikin University include the following:

Millikin Student Mental and Behavioral Health Services (SMBH)
217-424-6360
cmorrell@millikin.edu

Reports made to confidential employees are considered confidential reports. The confidential employee must explain the following to a person who informs them of conduct that reasonably may constitute sex discrimination.

- (1) The employee's status as confidential for purposes of this policy, including any circumstances in which the employee is not required to report to the Title IX Coordinator;
- (2) How to contact the Title IX Coordinator and how to make a complaint of sex discrimination; and
- (3) That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an information resolution or an investigation under the grievance procedures.

The Confidential Advisor as explained in 2.3.5 of this Policy is Growing Strong Sexual Assault Center. Millikin University works directly with Growing Strong Sexual Assault Center to provide Confidential Advisors or other advocates for students and employees.

Contact Information for the Confidential Advisor Growing Strong is below:
270 West Prairie Avenue
217-428-0770
<http://www.growingstrongcenter.org>

3.1.4 Public Awareness Events: When the Title IX Coordinator is notified of information that may reasonably constitute sex-based harassment that was provided during a public event to raise awareness about sex-based harassment that was held on Millikin University's campus or through an online platform sponsored by Millikin University, Millikin University is not obligated to act in response to the information unless it indicates an imminent and serious threat to the health or safety of a Complainant, any students, employees, or other individuals. However, Millikin University must use the information to inform its efforts to prevent sex-based harassment.

3.1.5 Anonymous Reporting: Anonymous reports may be made in writing to the Title IX Coordinator or Designee at the contact information provided in Section 1.4. A decision to remain anonymous, however, may greatly limit Millikin University's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this policy.

3.2 Reporting to Public Safety Personnel: Reports may be filed with Millikin Public Safety personnel or local law enforcement. The Title IX Coordinator or designee can assist with

contacting Public Safety personnel or law enforcement agencies. Law enforcement investigations are separate and distinct from Millikin University investigations.

The contact information for Millikin's Public Safety Department is below:

Millikin Public Safety
Walker Hall, 1st Floor, North End
217-464-8888

The contact information for local law enforcement is below:

Decatur Police Department
707 West South Side Drive
217-424-2711

3.3 Reporting to Outside Agencies: Reports may be made to external agencies:

(1) Students:

Office for Civil Rights

U.S. Department of Education
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604
Telephone: 312-730-1560
FAX: 312-730-1576; TDD: 800-877-8339
Email: OCR.Chicago@ed.gov

(2) Employees:

U.S. Equal Employment Opportunity Commission

JCK Federal Building
230 S Dearborn Street (Suite 1866)
Chicago, IL 60604
Phone [312-872-9777](tel:312-872-9777)
Fax [312-588-1260](tel:312-588-1260)
TTY [1-800-669-6820](tel:1-800-669-6820)

3.4 Outside Agency Confidential Support and Resources:

Any individual may also access resources located in the local community. These organizations can provide crisis intervention services, counseling, medical attention and assistance in dealing with the criminal justice system. If accessing these resources, individuals are encouraged to clarify

whether the resources are confidential. Other off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with Millikin University unless the victim requests the disclosure and signs a consent or waiver form. Other resources and referrals can be found on the Student Health and Wellness webpage.

National Hotlines:

Center for Prevention of Abuse
Provides a full range of victim assistance and resources
Crisis Hotline 1-800-559-SAFE (7233)

National Sexual Assault Hotline

Call: (800) 656-4673

Live Chat: www.rainn.org

Decatur Memorial Hospital:

(Individuals can receive sexual assault forensic exams at this location)

2300 N Edward Street, Decatur, IL 62526

217.876.8121

<https://memorial.health/decatur-memorial-hospital/overview/>

Counseling Services:

Millikin Student Mental and Behavioral Health Services (SMBH)

- SMBH provides students with free counseling services and referral to community services, if needed.
- 217-424-6360

LifeWorks Employee Assistance Program (EAP)

- The EAP is available to all employees and their dependents and offers support with mental, physical and emotional well-being.
- 877-234-5151

Growing Strong

- Growing Strong is a rape crisis center in Decatur that provides healing services to victims of sexual assault and sexual abuse, and their significant others and also serves as Millikin's confidential reporting resource.
- 270 West Prairie Ave, 217-428-0770, <http://www.growingstrongcenter.org>

Dove, Inc.

- Dove is a coalition of religious organizations, volunteers, and advocates that seeks to coordinate efforts to address unmet human needs and social injustices. Dove works for justice, equality, and understanding among all people.

- 302 South Union Street, 217-428-6616, <http://www.doveinc.org/>

3.5 Time Limits on Reporting: There are no time limits on reporting Sex Discrimination to the Title IX Coordinator or Millikin University. If the Respondent is no longer subject to Millikin University's Education Program or Activity or significant time has passed, Millikin University will have limited ability to investigate, respond, and/or provide disciplinary remedies and sanctions.

3.6 Millikin University Federal Reporting Obligations: Certain Millikin University employees, called Campus Security Authorities, have a duty to report certain incidents of misconduct to comply with the Clery Act. Campus Security Authorities are not required to report personally identifiable information for Clery Act purposes, but statistical information must be sent regarding the type of incident that occurred and its general location (e.g., on or off-campus) for publication in an annual report of crime statistics, called the Annual Security Report. Statistics published in the Annual Security Report help to provide the campus community with a clearer picture of the extent and nature of campus crime, but the statistics do not personally identify Complainants or Respondents. Reports by Campus Security Authorities are not official police reports and do not initiate criminal investigations. When Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking are reported under the Clery Act, Millikin University must issue timely warnings for such incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community. Millikin University will not disclose a Complainant's name and other identifying information in a timely warning but will provide sufficient information for the Millikin University community.

3.7 Preservation of Evidence: Millikin University recognizes that a Complainant may need time to decide whether to report an incident of Sex Discrimination to the police and/or Millikin University. The purpose of this section is to provide Complainants with suggestions on preserving evidence while they decide whether to report an incident.

Millikin University encourages Complainants, as soon as possible after experiencing Sexual Assault, to take steps to preserve evidence such as:

- (1) Have a forensic sexual assault nurse examination⁵ performed as soon as possible after the incident;
- (2) When possible, prior to having a forensic sexual assault nurse examination performed, avoid: changing clothing, bathing, showering, using a douche, using the bathroom, brushing one's teeth, drinking liquids, washing one's hands or face, or combing one's hair;
- (3) Preserve any clothing, sheets, or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);

⁵ Millikin University will assist the survivor in locating an option for a forensic medical exam at no cost to the survivor.

- (4) Preserve or capture electronic communications such as text messages, e-mails, social media posts, or exchanges (e.g., Snapchat, Facebook, Twitter);
- (5) Preserve or capture video, audio (e.g., voice mail messages), or photographs, including those stored on smartphones or other devices; and
- (6) Preserve any other physical, documentary, and/or electronic data that might be helpful to an investigator.

Section 4: Grievance Procedures: Evaluation and Supportive Measures

4.1 Initial Response to Notification of Sex Discrimination: Upon notification of conduct that reasonably may constitute sex discrimination, the Title IX Coordinator or designee will promptly contact the Complainant regardless of whether the Complainant was the individual who initiated the notification. During the initial contact with the Complainant the Title IX Coordinator or designee will:

- (1) Provide the Complainant with notice of their rights and options;
- (2) Explain the process for initiating a complaint, including the factors considered to determine when the Title IX Coordinator will initiate a complaint.
- (3) Explain the Grievance Procedures and Informal Resolution Process;
- (4) Discuss the availability of Supportive Measures regardless of whether a complaint is initiated;
- (5) Consider the Complainant's wishes with respect to Supportive Measures.

4.2 Supportive Measures: Supportive measures must be offered to complainant and respondent and coordinated by Millikin University.

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or Millikin University's educational environment, or to provide support to complainant or respondent during Millikin University's grievance procedures or during the informal resolution process. Millikin University must not impose such measures for punitive or disciplinary reasons.

Supportive measures may differ based on what Millikin University deems to be reasonably available. Examples of supportive measures include, but are not limited to:

- (1) Counseling;
- (2) Extensions of deadlines and other course-related adjustments;
- (3) Campus escort services;

- (4) Increased security and monitoring of certain areas of the campus;
- 5) Restrictions on contact applied to one or more parties (“no contact order”)⁶;
- (6) Leaves of absence;
- (7) Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

Supportive measures may be modified or terminated at the conclusion of the grievance procedures or at the conclusion of the informal resolution process or Millikin University may continue with the supportive measures indefinitely.

4.2.1 Supportive Measures Review: Complainants or Respondents may seek modification or reversal of Millikin University’s decision to provide, deny, modify, or terminate supportive measures applicable to them. An impartial employee, the Supportive Measures Review Administrator, will have authority to modify or reverse the decision if the Supportive Measures Review Administrator determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures in this Policy. The parties will be provided with additional opportunity to seek review by the Supportive Measures Review Administrator of supportive measures if circumstances change materially.

Request for review of supportive measures must be made in writing to:

Molly Berry, Executive Director of Admissions

Phone: 217-424-6354

Email: mberry@millikin.edu

Upon receipt of a request for review, the Supportive Measures Review Administrator will evaluate the request and provide a written response with their determination as to whether the prior decision to provide, deny, modify, or terminate the supportive measure was inconsistent within three (3) business days.

4.2.2 Privacy of Supportive Measures Information: Millikin University will not disclose details about any supportive measures to individuals other than the person to whom they apply, including informing one party of specific supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party’s access to the education program or activity.

⁶ Millikin University will honor a state issued order of protection or no contact order as well issued by outside law enforcement.

4.2.3 Consultation for Student with Disability: If the Complainant or Respondent has a disability, the Title IX Coordinator or designee may consult, as appropriate, with the individual or office that Millikin University has designated to provide support to students with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, in the implementation of supportive measures.

Section 5: Complaint

Millikin University will use the grievance procedures or the informal resolution process for all allegations of sex discrimination in a complaint.

5.1 Initiating a Complaint: A complaint must be an oral or written request to Millikin University that can objectively be understood as a request for Millikin University to investigate and make a determination about alleged sex discrimination.

The following persons have a right to initiate a complaint:

(1) For Allegations of sex-based harassment:

- (i) A Complainant.
- (ii) An authorized legal representative with the legal right to act on behalf of a Complainant.
- (iii) The Title IX Coordinator.

(2) For Allegations of Sex Discrimination Other than Sex-Based Harassment:

- (i) Any student or employee; or
- (ii) Any person other than a student or employee who was participating or attempting to participate in Millikin University's education program or activity at the time of the alleged sex discrimination.

5.2 Title IX Coordinator Considerations for Initiating a Complaint: In the absence of a complaint or the withdrawal of the allegations in a complaint, the Title IX Coordinator must determine whether to initiate a complaint of sex discrimination. The Title IX Coordinator must consider, at a minimum the following factors:

- (1) The Complainant's request not to proceed with initiation of a complaint;
- (2) The Complainant's reasonable safety concerns regarding initiation of a complaint;
- (3) The risk that additional acts of sex discrimination would occur if a complaint is not initiated;

(4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;

(5) The age and relationship of the parties, including whether the Respondent is an employee of Millikin University;

(6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;

(7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and

(8) Whether Millikin University could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

5.2.1 Notification of Complainant: If the Title IX Coordinator initiates a complaint, the Title IX Coordinator must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including providing additional supportive measures.

5.3 Response Regardless of Whether Complaint is Initiated: Regardless of whether a complaint is initiated, the Title IX Coordinator will take other appropriate, prompt and effective steps, in addition to steps necessary to effectuate remedies provided to an individual Complainant, if any, to ensure that sex discrimination does not continue to recur within Millikin University's education program or activity.

5.4 Dismissal of a Complaint: Millikin University may dismiss a complaint of sex discrimination for any of the following reasons:

(1) Millikin University is unable to identify the Respondent after taking reasonable steps to do so;

(2) The Respondent is not participating in Millikin University's education program or activity and is not employed by Millikin University;

(3) The Complainant voluntarily withdraws any or all of the allegations in the complaint in writing, the Title IX Coordinator declines to initiate a complaint under, and Millikin University determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under this policy even if proven; or

(4) Millikin University determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX or this Policy. Prior to dismissing

the complaint under this section, Millikin University will make reasonable efforts to clarify the allegations with the Complainant.

5.4.1 Notification of Dismissal of a Complaint: Upon dismissal, Millikin University will promptly notify the Complainant of the basis for the dismissal in writing. If the dismissal occurs after the Respondent has been notified of the allegations, then Millikin University will simultaneously notify the Respondent of the dismissal and the basis for the dismissal.

5.4.2 Appeal of Dismissal of a Complaint: Millikin University will notify the Complainant that a dismissal may be appealed. If the dismissal occurs after the Respondent has been notified of the allegations, then Millikin University will also notify the Respondent that the dismissal may be appealed. The Complainant and Respondent (if Respondent has been notified of the allegations) may appeal on the bases set forth in section 10.

If the dismissal is appealed, Millikin University will:

- (1) Notify the parties 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 decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- (4) Ensure that the decisionmaker for the appeal has been trained;
- (5) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- (6) Notify the parties of the result of the appeal and the rationale for the result.

5.4.3 After Dismissal of Complaint: If Millikin University dismisses a complaint, Millikin University will, at a minimum:

- (1) Offer supportive measures to the Complainant.
- (2) Offer supportive measures to the Respondent if the Respondent has been notified of the allegations.
- (3) Take other appropriate, prompt and effective steps to ensure that sex discrimination does not continue or recur within Millikin University's education program or activity.

5.5 Consolidation of Complaints: Millikin University 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.

If one of the complaints to be consolidated is a complaint of sex-based harassment involving a student, the grievance procedures for investigating and resolving the consolidated complaint must comply with the requirements in the Policy.

Section 6: Grievance Procedures - General Requirements

6.1 Equitable Procedures: The grievance procedures within this Policy are designed to treat Complainants and Respondents equitably.

6.1.1 Burden of Proof and Burden of Gathering Evidence: All investigations and proceedings, including hearings, relating to sex discrimination will be conducted using a “preponderance of the evidence” (more likely than not) standard. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Millikin University not the parties.

6.1.2 Presumption of Not Responsible: The Respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the grievance process.

6.1.3 Time Frames for Grievance Process: Millikin University strives to complete the grievance process within sixty (60) business days. Millikin University strives to complete the evaluation period within five (5) business days after meeting with the Complainant, the investigation period within thirty (30) business days after initiation of complaint, the determination period within fifteen (15) business days, and the appeal within ten (10) business days. Temporary delays and/or extensions of the time frames within this Policy may occur for good cause. Written notice will be provided to the parties of the delay and/or extension of the time frames with an explanation of the reasons for such action. Examples of good cause for delay/extensions include, but are not limited to, considerations such as the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; University closures; acts of nature; or the need for language assistance or accommodation of disabilities.

6.1.4 Range of Disciplinary Sanctions: Sanctions that may be required if an individual is found responsible for violating this policy include, but are not limited to:

(1) For Students:

- Verbal or written warning
- Mandatory educational programming or projects
- Community Service

- Probation
- Removal from housing or other campus programs/activities/leadership positions
- Suspension from school or employment
- Organizational Sanctions
- Other Educational or Reparative Actions
- Expulsion, dismissal or other separation from the University
- Measures to protect health and safety, such as drug or alcohol counseling

(2) For Employees:

- Verbal or written warning
- Disciplinary probation
- Suspension (with or without pay)
- Performance Improvement Plan
- Termination of employment
- Mandatory Educational raining
- Adjustment of supervisory responsibilities
- Measures to protect health and safety, such as drug or alcohol counseling
- Sanctions of a faculty member will be implemented in a manner consistent with the requirements of Title IX and the Clery Act.

6.1.5 Prohibition Against Bias or Conflict of Interest: The Title IX Coordinator, investigator, decisionmaker, or appellate decisionmaker must not have a bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The decisionmaker may be the same person as the Title IX Coordinator or investigator.

6.1.6 Privacy Protection: Millikin University will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the grievance procedures, provided that the steps do 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.

6.1.7 Objective Evaluation of Evidence: Millikin University will conduct an objective evaluation of all evidence that is relevant, as defined and not otherwise impermissible, including both inculpatory and exculpatory evidence—and provide that credibility determinations must not be based on a person’s status as a Complainant, Respondent, or witness.

Section 7: Grievance Procedures - Investigation

Millikin University will conduct an investigation following a complaint and Notice of Allegations.

7.1 Notice of Allegations: Upon initiation of Millikin’s grievance procedures, Millikin University will provide notice of the allegations to the parties whose identities are known which includes:

- (1) Millikin University’s grievance procedures.
- (2) Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes:
 - (i) The identities of the parties involved in the incident(s),
 - (ii) The conduct alleged to constitute sex discrimination under this policy, and
 - (iii) The date(s) and location(s) of the alleged incident(s), to the extent that information is available to Millikin University.
- (3) A statement that retaliation is prohibited.
- (4) A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, or an accurate description (report) of this evidence and if Millikin University provides a report depicting the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.
- (5) A statement that respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures and that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker.
- (6) A statement that they may have an advisor of their choice to serve in the role set out in paragraph 7.6 of this section, and that the advisor may be, but is not required to be, an attorney.
- (7) A statement that they are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence and an investigative report that accurately summarizes the evidence.

(8) A statement that the code of conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance procedure.

7.1.1 Updating Notice of Allegations: If, in the course of an investigation, Millikin University decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice of allegations or that are included in a complaint that is consolidated, Millikin University will provide notice of the additional allegations to the parties whose identities are known.

7.1.2 Reasonable Delay of Notice of Allegations to Address Safety: If Millikin University has reasonable concerns for the safety of any person as a result of providing notice, Millikin University may reasonably delay providing written notice of the allegations to address the safety concern appropriately. Reasonable concerns will be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

7.2 Burden: Millikin University will ensure that the burden is on Millikin University—not on the parties—to conduct a safe and fair investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

7.3 Witnesses: Millikin University will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible. Millikin University has discretion to determine whether parties may present expert witnesses and will make that determination equally to the parties.

7.4 Unauthorized Access: Millikin University will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

7.5 Written Notice of Meetings: Parties and witnesses will be provided notice of any meeting, interview, and/or hearing when their presence is invited or expected with sufficient time to prepare to participate. This notice will include the date, time, location, participants, and purposes of the meeting or proceeding.

7.6 Advisor of Choice: Parties may be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. Millikin University may establish restrictions regarding the extent to which the advisor may participate in the grievance procedures, but the restrictions will apply equally to the parties. The advisor's role is limited to assisting, advising, and/or supporting a complainant or respondent. An advisor is not permitted to speak for or on behalf of a complainant or respondent or appear in lieu of a complainant or respondent.

7.7 Questioning of Parties and Witnesses: The investigator will ask questions and follow up questions of parties and witnesses to adequately assess a party's or witness' credibility to the

extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

The investigator will allow each party to propose questions that the party wants asked of any party or witness. The questions that are relevant and not otherwise impermissible will be asked by the investigator during one or more individual meetings, including follow-up meetings, with a party or witness.

The meetings with the parties and witnesses will be recorded using audio or audiovisual technology.

The investigator will provide each party with an audio or audiovisual recording or transcript of the meetings with enough time for the party to have a reasonable opportunity to provide follow up questions.

Section 8 Grievance Procedures - Review of Evidence

Millikin University will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, and an accurate description of this evidence in the form of a report. If Millikin University provides a description of the evidence, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

Millikin University will provide a reasonable opportunity to respond to the evidence and to the accurate description of the evidence. The parties will have five (5) business days to review the evidence and provide written response upon receipt of the evidence and report.

Section 9: Grievance Procedures - Determination

9.1 Notification: At the conclusion of the investigation and review of the evidence and report, the decisionmaker (who may be the same or separate than the investigator) will simultaneously notify the parties in writing of the determination whether sex discrimination occurred, include the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal.

9.2 Determination: At the conclusion of the investigation and review of the evidence and report, the decisionmaker will simultaneously notify the parties in writing of the determination whether sex discrimination occurred within seven (7) days of when the decision was made. The determination will include:

(1) A description of the alleged sex discrimination;

(2) Information about the policies and procedures that Millikin University used to evaluate the allegations;

(3) The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex discrimination occurred;

(4) If the decisionmaker finds that sex discrimination occurred, any disciplinary sanctions that imposed on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided to the Complainant, and, to the extent appropriate, other students identified to be experiencing the effects of the sex discrimination; and

(5) The postsecondary institution's procedures for the Complainant and Respondent to appeal.

9.2.1 Remedies and Disciplinary Sanctions: If there is a determination that sex discrimination occurred, as appropriate, Title IX Coordinator will coordinate the provision and implementation of remedies to the Complainant and other persons identified as having had equal access to Millikin University's education program or activity limited or denied by sex discrimination, coordinate the imposition of any disciplinary sanctions on a Respondent and take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur.

9.2.2 Finality of Determination: The determination regarding responsibility becomes final either on the date Millikin University provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

9.2.3 Discipline Outside of Grievance Procedures: Millikin University will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.

Millikin University will not discipline a party, witness, or others participating in Millikin University's grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Section 10: Appeals

Appeals are offered to both parties equitably to challenge the determination as to whether sex discrimination occurred and the dismissal of a complaint or allegation therein. Appeals must be made in writing and delivered to the Title IX Coordinator within three (3) Business Days of the receipt of the determination regarding responsibility or dismissal.

10.1 Bases for Appeal: Appeals may be made on the following:

(1) Procedural irregularity that would change the outcome;

(2) New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and

(3) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or respondent that would change the outcome.

(4) The sanction is disproportionate with the policy violation.

10.2 Appeal Procedures: If an appeal is submitted, Millikin University will:

(1) Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

(2) Ensure that the decision-maker for the appeal is not the same person as the decisionmaker that reached the determination regarding responsibility or dismissal, the investigator or the Title IX Coordinator.

(3) Provide the non-appealing party with five (5) Business Days from receipt of the notification of appeal to submit a written statement in support of the outcome of the determination or dismissal.

(4) Issue a written decision describing the result of the appeal and the rationale for the result which can be one of the following:

- Affirm the decisionmaker's determination regarding the Respondent's responsibility and affirm the disciplinary sanctions and remedies, if applicable;
- Affirm the decisionmaker's determination regarding the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable;
- Remand the process back to the hearing stage for the decisionmaker to remedy any procedural irregularity or consider any new evidence;
- Reverse the decisionmaker's determination of the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable; or
- Affirm or amend the sanctions and/or remedies outlined in the determination issued under this Policy.

(5) Provide the written decision simultaneously to both parties.

10.3 Appeal Timeframe: The appellate decisionmaker will release the written decision within seven (7) Business Days after the conclusion of the review of findings or sanctions.

Section 11: Informal Resolution

At any time prior to determining whether sex discrimination occurred, the parties may agree, with the support of the Title IX Coordinator, to participate in an informal resolution process facilitated by Millikin University, that does not involve the grievance procedures.

Millikin University will not require or pressure the parties to participate in an informal resolution process and will not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment, continuing enrollment, employment, continuing employment, or exercise of any other right.

The facilitator for the informal resolution process will not be the same person as the investigator or decisionmaker in the grievance procedures.

Types of informal resolution include, but are not limited to, mediation, facilitated dialogue, conflict coaching, restorative justice, and resolution by agreement of the parties.

11.1 Discretion of Title IX Coordinator: The Title IX Coordinator has discretion to determine whether it is appropriate to offer an informal resolution and may decline to offer informal resolution despite one or more of the party's wishes. When determining whether to offer informal resolution, the Title IX Coordinator will consider whether the alleged conduct presents a future risk of harm to others.

11.2 Informal Resolution Notice: Prior to the initiation of the informal resolution process, Millikin University will provide the parties written notice that explains:

- (1) The allegations;
- (2) The requirements of the informal resolution process;
- (3) Notice that, prior to agreement to a resolution, any party has the right to withdraw from the informal process and to initiate or resume the grievance procedures;
- (4) Notice that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
- (5) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- (6) What information Millikin University will maintain and whether and how Millikin University could disclose such information for use in grievance procedures if the grievance procedures are initiated or resumed.

11.3 Potential Informal Resolution Terms: Potential terms that may be included in an informal resolution agreement include but are not limited to:

- (1) Restrictions on contact; and
- (2) Restrictions on either party's participation in one or more of Millikin University's programs or activities or attendance at specific events, including restrictions Millikin University could have imposed as remedies or disciplinary sanctions had the decisionmaker determined at the conclusion of the grievance procedures that sex discrimination occurred.

11.4 Informal Resolution Availability: The informal resolution process is not permitted to resolve allegations that an employee committed sex-based harassment against a student.

Section 12: Emergency Removal and Administrative Leave

12.1 Emergency Removal: At any time after the Title IX Coordinator is on notice of sex discrimination, Millikin University may remove a Respondent on an emergency basis. Millikin University will only conduct an emergency removal after:

- (1) Undertaking an individualized safety and risk analysis,
- (2) Determining that an immediate and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and
- (3) Providing the Respondent with notice and an opportunity to challenge the decision to the Title IX Coordinator, immediately following removal.


12.2 Administrative Leave: Millikin University may place an employee Respondent on administrative leave during the pendency of the grievance process in this Policy.

Section 13: Recordkeeping

The following records will be maintained by Millikin University for at least seven (7) years after the disposition of a complaint:

- (1) Records documenting the informal resolution process or grievance procedures for each complaint of sex discrimination including the resulting outcome.
- (2) Records documenting the actions Millikin University took to provide supportive measures and remedies and a fair and equitable response under this policy and Title IX.

(3) Training materials used to provide training to all employees, the Title IX Coordinator, designees, investigators, decision-makers, informal resolution facilitators, appellate decision-makers, and supportive measures review administrators.

 POLICY / PROCEDURE	Effective Date: <p style="text-align: right;">10.18.24</p>	Review Dates:	Revision Dates:
	Approved By: <i>Sarah Kolich</i> 10/21/24		
	Department: <p style="text-align: center;">Human Resources</p>		
	Subject: Title IX Policy for Sex Discrimination Except for Sex-Based Harassment Involving a Student – D1		Page 1 of 28

Policy:

Nondiscrimination Policy Statement: Millikin University does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

Purpose:

Millikin University takes all reported discrimination on the basis of sex seriously. Millikin University will promptly discipline any individuals within its control who are found responsible for violating this Policy.

Procedures:

Applicability: This Policy applies as follows:

- a. **Employees:** This Policy applies to all forms of sex discrimination involving employees of Millikin University when the conduct is within the definitions and application of the scope outlined in sections 1.15 and 2 of this Policy, except when that conduct is sex-based harassment involving a student and employee party.¹
- b. **Students:** This Policy applies to all forms of sex discrimination involving students of Millikin University when the conduct is within the definitions and application of the scope outlined in sections 1.15 and 2 of this Policy, except when that conduct is sex-based harassment involving at least one student as a party.²

1.4 Title IX Coordinator and Title IX Designees: The Title IX Coordinator is the Millikin University administrator who oversees Millikin University’s compliance with Title IX. The Title IX Coordinator is responsible for the response to notifications of discrimination on the basis of sex. The Title IX Coordinator is available to discuss the grievance procedures, coordinate supportive measures, modifications related to pregnancy and related conditions, explain Millikin University’s policies

¹ Allegations of sex-based harassment will be resolved using the Title IX Policy for Sex-Based Harassment Involving a Student.

² Allegations of sex-based harassment involving a student will be resolved using the Title IX Policy for Sex-Based Harassment Involving a Student.

and procedures, and provide education on relevant issues. The Title IX Coordinator may designate other employees to facilitate these responsibilities.

Individuals may contact the Title IX Coordinator or designees with questions.

The contact information for the Title IX Coordinator and designees is as follows:

Todd Ray, Title IX Coordinator

Email: taray@millikin.edu

Office: Schilling 205

Phone: 217-362-6416

Wallace Southerland, VP of Student Affairs and Deputy Title IX Coordinator

Email: wsoutherland@millikin.edu

Office: University Commons, 3rd Floor

Phone: 217-424-6395

Brittany Gates, Title IX Specialist

Email: bgates@millikin.edu

1.5 Communication: Millikin University will use electronic mail (email) for purposes of communication under this Policy.

1.6 Free Speech: Constitutionally protected expression cannot be considered discrimination on the basis of sex under this Policy.

1.7 Dissemination of Policy of and Notice of Nondiscrimination: Millikin University will publish the Notice of Nondiscrimination on its website and in each handbook, catalog, announcement, bulletin, and application form made available to students, parents/guardians, and employees, or which are otherwise used in connection with the recruitment of students. This posting will include a link to this Policy and reporting options.

1.8 Effective Date: The effective date of this Policy is October 18, 2024. Matters that occurred prior to October 18, 2024 will be resolved using the Policy and procedures in place at the time of the alleged event.

1.9 False Statements Prohibited: The Millikin University Student Handbook prohibits intentionally furnishing false information to a university official; forgery; unauthorized alteration or unauthorized use of any University document, record (including computer records), or instrument of identification. Any student found to have knowingly furnished false information to a University official may be subject to discipline pursuant to the Student Handbook. Similarly, Millikin's Employee Handbook prohibits providing false information, and an employee may be subject to disciplinary action under the Employee Handbook if found to have provided false information.

1.10 Amnesty: Reporting discrimination on the basis of sex and other inappropriate conduct is encouraged at Millikin University. Thus, it is imperative that parties and witnesses share information without fear of potential consequences for certain violations of the student code of conduct including, but not limited to, underage drinking or possession or use of a controlled substance, that is revealed in the course of such a report, unless the University determines that the violation was egregious, including without limitation an action that places the health or safety of any other person at risk .

Millikin University offers parties and witnesses amnesty from such violations, but individuals may be responsible for other, more serious conduct that does harm or place the health or safety of any other person at risk. After granting Amnesty, Millikin University may offer educational or therapeutic opportunities for individuals in lieu of a finding of responsibility or punitive sanctions with the student regarding alcohol or controlled substances. This Section does not apply to reports to the police; rather, it applies only to discipline for violations of Millikin University's Code of Conduct.

1.11 Other Millikin University Policies: This Policy takes precedence over other Millikin University policies and procedures concerning discrimination on the basis of sex in the event of a conflict.

1.12 Modification and Review of this Policy: Millikin University reserves the right to modify this Policy to consider applicable legal requirements. Millikin University will regularly review this Policy to determine whether modifications should be made.

1.13 Additional Code of Conduct or Millikin University Policy Violations: Alleged violations of the student or employee Code of Conduct and/or other policies that arise from the same events as alleged discrimination on the basis of sex under this Policy will be investigated and resolved under the grievance procedures in this Policy unless the sex discrimination has been dismissed under Section 5.4 of this Policy or is sex-based harassment under the Title IX Policy for Sex-Based Harassment Involving a Student. Conduct dismissed as sex discrimination can be referred to the Student Code of Conduct or Employee Handbook for a response.

1.14 Standard of Proof: The burden rests with Millikin University to prove that a violation of this Policy occurred by a Preponderance of the Evidence (more likely than not).

1.15 Application: This Policy applies to all sex discrimination except for sex-based harassment involving a student occurring under Millikin University education program or activity in the United States with respect to Employees and Students as defined in section 1.3. Conduct that occurs under Millikin University's education program or activity includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by Millikin University and conduct that is subject to Millikin University's disciplinary authority. Millikin University 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 of Millikin University's education program or activity or outside the United States.

1.16 Prohibited Disclosure of Personally Identifiable Information: Millikin University will not disclose personally identifiable information obtained while complying with this Policy and/or grievance procedures except in the following circumstances:

- (1) When Millikin University has obtained prior written consent from a person with the legal right to consent to the disclosure;
- (2) When the information is disclosed to an authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- (3) To carry out the purposes of this Policy and procedure including action taken to address conduct that reasonably may constitute sex discrimination under this Policy in Millikin University's education program or activity;
- (4) As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
- (5) To the extent such disclosures are not otherwise in conflict with Title IX or this Policy when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

Section 2: Definitions

2.1 Definitions Related to Prohibited Conduct: This Policy applies to all sex discrimination that is not sex-based harassment involving a student. This Policy also applies to retaliation. Sex-based harassment involving a student will be resolved using the Title IX Policy for Sex-Based Harassment Involving a Student.

2.1.1 Sex-Based Harassment: 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 Millikin University to provide an aid, benefit, or service under Millikin University'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 harassment:** 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 Millikin

University's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the Complainant's ability to access Millikin University's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within Millikin University'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 Millikin University's education program or activity.

(3) Specific offenses: Sexual Assault, Dating Violence, Domestic Violence, or Stalking as defined in this Policy.

2.1.2 Sexual Assault: An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including Rape, Fondling, Incest, and Statutory Rape as defined in this Policy.

2.1.3 Rape³: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the victim.

2.1.4 Fondling⁴: The touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim

³ Rape as defined in the Uniform Crime Reporting Program (UCR) includes:

Forcible Rape: The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault with and Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

⁴ Fondling is referred to as Forcible Fondling in the UCR.

is incapable of giving Consent because of his/her age or because of his/her temporary or permanent mental Incapacity.

2.1.5 Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

2.1.6 Statutory Rape: Sexual intercourse with a person who is under the statutory age of Consent.

2.1.7 Dating Violence: 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 relationship; and
- The frequency of interaction between the persons involved in the relationship;

2.1.8 Domestic Violence: 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 Millikin University, 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.

2.1.9 Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's safety or the safety of others; or

(2) Suffer substantial emotional distress.

2.1.10 Retaliation, including Peer Retaliation: Intimidation, threats, coercion, or discrimination against any person by Millikin University, a student, or an employee or other person authorized by Millikin University to provide aid, benefit, or service under Millikin

University's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, including in an informal resolution process, in grievance procedures, and in any other actions taken by Millikin University under this Policy. Nothing in this definition or this Policy precludes Millikin University from requiring an employee or other person authorized by Millikin University to provide aid, benefit, or service under Millikin University's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.

2.2 Definitions Related to Sexual Discrimination: Consent, Course of Conduct, Incapacitation, On the Basis of Sex, Reasonable Person, Substantial Emotional Distress

2.2.1 Consent is affirmative, conscious, voluntary, and revocable. Consent to sexual activity requires of each person an affirmative, conscious, and voluntary agreement to engage in sexual activity.

It is the responsibility of each person to ensure they have the affirmative Consent of the other to engage in the sexual activity. Lack of protest, lack of verbal or physical resistance, or silence do not, alone, constitute Consent in general or as a result of the use of threat or force. Affirmative Consent must be an ongoing and freely given agreement to sexual activity and can be revoked at any time during sexual activity.

The existence of a dating relationship or past sexual relations between the Complainant and Respondent will never by itself be assumed to be an indicator of Consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of Consent to prior conduct). A person consenting to sexual activity with one person does not constitute Consent to future sexual activity. A person's manner of dress does not constitute Consent.

The Respondent's belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the decisionmaker will consider all the facts and circumstances the Respondent knew, or reasonably should have known, at the time. In particular, the Respondent's belief is not a valid defense where:

- (1)** The Respondent's belief arose from the Respondent's own intoxication or recklessness;
- (2)** The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or
- (3)** The Respondent knew or a reasonable person should have known that the Complainant was unable to Consent because the Complainant was incapacitated, in that the Complainant was:
 - asleep or unconscious

- unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication
- unable to communicate due to a mental or physical condition
- under the age of consent.

2.2.2 Course of Conduct: Two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

2.2.3 Incapacitation: A person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of alcohol or other drugs such that the person does not have:

- (1) control over their body, is unaware that sexual activity is occurring, or
- (2) their mental, physical or developmental abilities render them incapable of making rational informed decisions.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking alcohol, using drugs, or taking medication.

A person violates this Policy when they engage in sexual activity with another person who is Incapacitated and a Reasonable Person in the same situation would have known that the person is Incapacitated. Incapacitation can be voluntary or involuntary. Signs of Incapacitation may include, without limitation: sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances.

2.2.4 On the Basis of Sex (Scope): Includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

2.2.5 Reasonable Person: A reasonable person under similar circumstances and with similar identities to the victim.

2.2.6 Substantial Emotional Distress: Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

2.3 Other Defined Terms

2.3.1 Business Day: Any weekday not designated by Millikin University as a holiday or administrative closure day. When calculating a time period of Business Days specified in this Policy, the Business Day of the event that triggers a time period is excluded.

2.3.2 Complainant: A student or employee of Millikin University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or a person other than a student or employee of Millikin University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in Millikin University's education program or activity.

2.3.3 Complaint: An oral or written request to Millikin University that objectively can be understood as a request for Millikin University to investigate and make a determination about alleged discrimination.

2.3.4 Confidential Employee:

(1) An employee of Millikin University whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this Policy, 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 Millikin University whom Millikin University has designated as confidential under this Policy 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 post-secondary 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.

2.3.5 Confidential Advisor: Means a person who is employed or contracted by a higher education institution to provide emergency and ongoing support to student survivors of sexual violence with the training, duties, and responsibilities described in Section 20 of the Illinois Preventing Sexual Violence in Higher Education Act.

2.3.6 Disciplinary Sanctions: Consequences imposed on a Respondent following a determination under Title IX that the Respondent violated Millikin University's prohibition on sex discrimination.

2.3.7 Education Program or Activity: Any academic, extracurricular, research, occupational training, or other education program or activity associated with the University.

2.3.8 Impermissible Evidence: The following information must not be discussed, otherwise used, accessed or considered, even if relevant, except by Millikin University to determine whether an exception exists.

(1) Evidence that is protected under a privilege as 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;

(2) A party's or witness' 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 Millikin University obtains that party's or witness' voluntary, written consent for use in Millikin University's grievance procedures; and

(3) 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.

2.3.9 Party: A Complainant or Respondent.

2.3.10 Pregnancy or Related Conditions:

(1) Pregnancy, childbirth, termination of pregnancy, or lactation;

(2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

(3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

2.3.11 Relevant: Related to the allegations of sex discrimination under investigation as part of the grievance procedures. 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.

2.3.12 Remedies: Measures provided, as appropriate, to a Complainant or any other person Millikin University identifies as having had their equal access to Millikin University's education program or activity limited or denied by sex discrimination. These measures are provided to

restore or preserve that person's access to Millikin University's education program or activity after Millikin University determines that sex discrimination occurred.

2.3.13 Respondent: A person who is alleged to have violated Millikin University's prohibition on sex discrimination.

2.3.14 Student: A person who has gained admission.

2.3.15 Student with a Disability: A student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

2.3.16 Supportive Measures: Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

(1) Restore or preserve that party's access to Millikin University's education program or activity, including measures that are designed to protect the safety of the parties or Millikin University's educational environment; or

(2) Provide support during Millikin University's grievance procedures or during the informal resolution process.

Section 3: Reporting Sex Discrimination and Preservation of Evidence

3.1 Reporting to Millikin University

3.1.1 Reporting to/Notifying the Title IX Coordinator: Reports of Sex Discrimination may be made to the Title IX Coordinator. The Title IX Coordinator may be notified at any time by email, phone, online form or mail. Notifications may be made in person during business hours. Reports to the Title IX Coordinator can be made by an involved party, third party, or bystanders. The Title IX Coordinator will promptly respond by offering supportive measures to the Complainant regardless of whether a complaint is initiated.

3.1.2 Reporting to all Employees Who are Not Designated as Confidential Employees: If any employee who is not designated as a confidential employee has information about conduct that may reasonably constitute sex discrimination, the employee must notify the Title IX Coordinator.

3.1.3 Reporting to Confidential Employees: Confidential employees at Millikin University include the following:

Millikin Student Mental and Behavioral Health Services (SMBH)

217-424-6360

cmorrell@millikin.edu

Reports made to confidential employees are considered confidential reports. The confidential employee must explain the following to a person who informs them of conduct that reasonably may constitute sex discrimination.

- (1) The employee's status as confidential for purposes of this Policy, including any circumstances in which the employee is not required to report to the Title IX Coordinator;
- (2) How to contact the Title IX Coordinator and how to make a complaint of sex discrimination; and
- (3) That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an information resolution or an investigation under the grievance procedures.

The Confidential Advisor as explained in 2.3.5 of this Policy is Growing Strong Sexual Assault Center. Millikin University works directly with Growing Strong Sexual Assault Center to provide Confidential Advisors or other advocates for students and employees.

Contact Information for the Confidential Advisor Growing Strong is below:

270 West Prairie Avenue

217-428-0770

<http://www.growingstrongcenter.org>

3.1.4 Public Awareness Events: When the Title IX Coordinator is notified of information that may reasonably constitute sex-based harassment that was provided during a public event to raise awareness about sex-based harassment that was held on Millikin University's campus or through an online platform sponsored by Millikin University, Millikin University is not obligated to act in response to the information unless it indicates an imminent and serious threat to the health or safety of a Complainant, any students, employees, or other individuals. However, Millikin University must use information to inform its efforts to prevent sex-based harassment.

3.1.5 Anonymous Reporting: Anonymous reports may be made in writing to the Title IX Coordinator or designee at the contact information provided in Section 1.4. A decision to remain anonymous, however, may greatly limit Millikin University's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy.

3.2 Reporting to Law Enforcement: Reports may be filed with Millikin Public Safety personnel or local law enforcement by dialing 911. The Title IX Coordinator or designee can assist with contacting Public Safety personnel or law enforcement agencies. Law enforcement investigations are separate and distinct from Millikin University investigations.

The contact information for Millikin's Public Safety Department is below:

Millikin Public Safety
Walker Hall, 1st Floor, North End
217-464-8888
For emergencies, dial 911.

The contact information for local law enforcement is below:

Decatur Police Department
707 West South Side Drive
217-424-2711
For emergencies, dial 911.

3.3 Reporting to Outside Agencies: Reports may be made to external agencies:

(1) Students:

Office for Civil Rights
U.S. Department of Education
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604
Telephone: 312-730-1560
FAX: 312-730-1576; TDD: 800-877-8339
Email: OCR.Chicago@ed.gov

(2) Employees:

U.S. Equal Employment Opportunity Commission
JCK Federal Building
230 S Dearborn Street (Suite 1866)
Chicago, IL 60604
Phone [312-872-9777](tel:312-872-9777)
Fax [312-588-1260](tel:312-588-1260)
TTY [1-800-669-6820](tel:1-800-669-6820)

3.4 Outside Agency Confidential Support and Resources:

Any individual may also access resources located in the local community. These organizations can provide crisis intervention services, counseling, medical attention and assistance in dealing with the criminal justice system. If accessing these resources, individuals are encouraged to clarify whether the resources are confidential. Other off-campus counselors, advocates, and health care

providers will also generally maintain confidentiality and not share information with Millikin University unless the victim requests the disclosure and signs a consent or waiver form. Other resources and referrals can be found on the Student Health and Wellness webpage.

National Hotlines:

Center for Prevention of Abuse

Provides a full range of victim assistance and resources

Crisis Hotline 1-800-559-SAFE (7233)

National Sexual Assault Hotline

Call: (800) 656-4673

Live Chat: www.rainn.org

Decatur Memorial Hospital:

(Individuals can receive sexual assault forensic exams at this location)

2300 N Edward Street, Decatur, IL 62526

217.876.8121

<https://memorial.health/decatur-memorial-hospital/overview/>

Counseling Services:

Millikin Student Mental and Behavioral Health Services (SMBH)

- SMBH provides students with free counseling services and referral to community services, if needed.
- 217-424-6360

LifeWorks Employee Assistance Program (EAP)

- The EAP is available to all employees and their dependents and offers support with mental, physical and emotional well-being.
- 877-234-5151

Growing Strong

- Growing Strong is a rape crisis center in Decatur that provides healing services to victims of sexual assault and sexual abuse, and their significant others and also serves as Millikin's confidential reporting resource.
- 270 West Prairie Ave, 217-428-0770, <http://www.growingstrongcenter.org>

Dove, Inc.

- Dove is a coalition of religious organizations, volunteers, and advocates that seeks to coordinate efforts to address unmet human needs and social injustices. Dove works for justice, equality, and understanding among all people.
- 302 South Union Street, 217-428-6616, <http://www.doveinc.org/>

3.5 Time Limits on Reporting: There are no time limits on reporting sex discrimination to the Title IX Coordinator or Millikin University. If the Respondent is no longer subject to Millikin University's Education Program or Activity or significant time has passed, Millikin University will have limited ability to investigate, respond, and/or provide disciplinary remedies and sanctions.

3.6 Millikin University Federal Reporting Obligations: Certain Millikin University employees, called Campus Security Authorities, have a duty to report certain incidents of misconduct to comply with the Clery Act. Campus Security Authorities are not required to report personally identifiable information for Clery Act purposes, but statistical information must be sent regarding the type of incident that occurred and its general location (e.g., on or off-campus) for publication in an annual report of crime statistics, called the Annual Security Report. Statistics published in the Annual Security Report help to provide the campus community with a clearer picture of the extent and nature of campus crime, but the statistics do not personally identify Complainants or Respondents. Reports by Campus Security Authorities are not official police reports and do not initiate criminal investigations. When Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking are reported under the Clery Act, Millikin University must issue timely warnings for such incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community. Millikin University will not disclose a Complainant's name and other identifying information in a timely warning but will provide sufficient information for the Millikin University community.

3.7 Preservation of Evidence: Millikin University recognizes that a Complainant may need time to decide whether to report an incident of sex discrimination to the police and/or Millikin University. The purpose of this section is to provide Complainants with suggestions on preserving evidence while they decide whether to report an incident.

Millikin University encourages Complainants, as soon as possible after experiencing Sexual Assault, to take steps to preserve evidence such as:

- (1) Have a forensic sexual assault nurse examination performed as soon as possible after the incident⁵;
- (2) When possible, prior to having a forensic sexual assault nurse examination performed, avoid: changing clothing, bathing, showering, using a douche, using the bathroom, brushing one's teeth, drinking liquids, washing one's hands or face, or combing one's hair;
- (3) Preserve any clothing, sheets, or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);

⁵ Millikin University will assist the survivor in locating an option for a forensic medical exam at no cost to the survivor.

- (4) Preserve or capture electronic communications such as text messages, e-mails, social media posts, or exchanges (e.g., Snapchat, Facebook, Twitter);
- (5) Preserve or capture video, audio (e.g., voice mail messages), or photographs, including those stored on smartphones or other devices; and
- (6) Preserve any other physical, documentary, and/or electronic data that might be helpful to an investigator.

Section 4: Grievance Procedures: Evaluation and Supportive Measures

4.1 Initial Response to Notification of Sex Discrimination: Upon notification of conduct that reasonably may constitute sex discrimination, the Title IX Coordinator will promptly contact the Complainant regardless of whether the Complainant was the individual who initiated the notification. During the initial contact with the Complainant the Title IX Coordinator will:

- (1) Provide the Complainant with notice of their rights and options;
- (2) Explain the process for initiating a complaint, including the factors considered to determine when the Title IX Coordinator will initiate a complaint.
- (3) Explain the Grievance Procedures and Informal Resolution Process;
- (4) Discuss the availability of Supportive Measures regardless of whether a complaint is initiated;
- (5) Consider the Complainant's wishes with respect to Supportive Measures.

4.2 Supportive Measures: Supportive measures must be offered and coordinated by Millikin University.

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or Millikin University's educational environment, or to provide support during Millikin University's grievance procedures or during the informal resolution process. Millikin University must not impose such measures for punitive or disciplinary reasons.

Supportive measures may differ based on what Millikin University deems to be reasonably available. Examples of supportive measures include, but are not limited to:

- (1) Counseling;
- (2) Extensions of deadlines and other course-related adjustments;
- (3) Campus escort services;
- (4) Increased security and monitoring of certain areas of the campus;

(5) Restrictions on contact applied to one or more parties (“no contact order”)⁶;

(6) Leaves of absence;

(7) Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

Supportive measures may be modified or terminated at the conclusion of the grievance procedures or at the conclusion of the informal resolution process or Millikin University may continue with the supportive measures indefinitely.

4.2.1 Supportive Measures Review: Complainants or Respondents may seek modification or reversal of Millikin University’s decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee (Supportive Measures Review Administrator) must have authority to modify or reverse the decision if the Supportive Measures Review Administrator determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures in this Policy. The parties will be provided with additional opportunity to seek review by the Supportive Measures Review Administrator of supportive measures if circumstances change materially.

Request for review of supportive measures must be made in writing to:

Molly Berry, Executive Director of Admissions

Phone: 217-424-6354

Email: mberry@millikin.edu

Upon receipt of a request for review, the Supportive Measures Review Administrator will evaluate the request and provide a written response with their determination as to whether the prior decision to provide, deny, modify, or terminate the supportive measure was inconsistent within three (3) business days.

4.2.2 Privacy of Supportive Measures Information: Millikin University will not disclose information about any supportive measures to individuals other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party’s access to the education program or activity.

4.2.3 Consultation for Student with Disability: If the Complainant or Respondent has a disability, the Title IX Coordinator may consult, as appropriate, with the individual or office that Millikin University has designated to provide support to students with disabilities to

⁶ Millikin University will honor a state issued order of protection or no contact order as well issued by outside law enforcement.

determine how to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, in the implementation of supportive measures.

Section 5: Complaint

Millikin University will use the grievance procedures or the informal resolution process for all allegations of sex discrimination in a complaint.

5.1 Initiating a Complaint: A complaint must be an oral or written request to Millikin University that can objectively be understood as a request for Millikin University to investigate and make a determination about alleged sex discrimination.

The following persons have a right to initiate a complaint:

(1) For Allegations of Sex-Based Harassment:

- (i) A Complainant.
- (ii) An authorized legal representative with the legal right to act on behalf of a Complainant.
- (iii) The Title IX Coordinator.

(2) For Allegations of Sex Discrimination Other than Sex-Based Harassment:

- (i) Any student or employee; or
- (ii) Any person other than a student or employee who was participating or attempting to participate in Millikin University's education program or activity at the time of the alleged sex discrimination.

5.2 Title IX Coordinator Considerations for Initiating a Complaint: In the absence of a complaint or the withdrawal of the allegations in a complaint, the Title IX Coordinator must determine whether to initiate a complaint of sex discrimination. The Title IX Coordinator must consider, at a minimum the following factors:

- (1) The Complainant's request not to proceed with initiation of a complaint;
- (2) The Complainant's reasonable safety concerns regarding initiation of a complaint;
- (3) The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- (4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;

(5) The age and relationship of the parties, including whether the Respondent is an employee of Millikin University;

(6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;

(7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and

(8) Whether Millikin University could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

5.2.1 Notification of Complainant: If the Title IX Coordinator initiates a complaint, the Title IX Coordinator must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including providing additional supportive measures.

5.3 Response Regardless of Whether Complaint is Initiated: Regardless of whether a complaint is initiated, the Title IX Coordinator will take other appropriate, prompt and effective steps, in addition to steps necessary to effectuate remedies provided to an individual complaint, if any, to ensure that sex discrimination does not continue to recur within Millikin University's education program or activity.

5.4 Dismissal of a Complaint: Millikin University may dismiss a complaint of sex discrimination for any of the following reasons:

(1) Millikin University is unable to identify the Respondent after taking reasonable steps to do so;

(2) The Respondent is not participating in Millikin University's education program or activity and is not employed by Millikin University;

(3) The Complainant voluntarily withdraws any or all of the allegations in the complaint in writing, the Title IX Coordinator declines to initiate a complaint under, and Millikin University determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under this Policy even if proven; or

(4) Millikin University determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX or this Policy. Prior to dismissing the complaint under this section, Millikin University will make reasonable efforts to clarify the allegations with the Complainant.

5.4.1 Notification of Dismissal of a Complaint: Upon dismissal, Millikin University will promptly notify the Complainant of the basis for the dismissal in writing. If the dismissal occurs after the Respondent has been notified of the allegations, then Millikin University will simultaneously notify the Respondent of the dismissal and the basis for the dismissal.

5.4.2 Appeal of Dismissal of a Complaint: Millikin University will notify the Complainant that a dismissal may be appealed. If the dismissal occurs after the Respondent has been notified of the allegations, then Millikin University will also notify the Respondent that the dismissal may be appealed. The Complainant and Respondent (if Respondent has been notified of the allegations) may appeal on the bases set forth in section 10.

If the dismissal is appealed, Millikin University will:

- (1) Notify the parties 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 decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- (4) Ensure that the decisionmaker for the appeal has been trained;
- (5) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- (6) Notify the parties of the result of the appeal and the rationale for the result.

5.4.3 After Dismissal of Complaint: If Millikin University dismisses a complaint, Millikin University will, at a minimum:

- (1) Offer supportive measures to the Complainant.
- (2) Offer supportive measures to the Respondent if the Respondent has been notified of the allegations.
- (3) Take other appropriate, prompt, and effective steps to ensure that sex discrimination does not continue or recur within Millikin University's education program or activity.

5.5 Consolidation of Complaints: Millikin University 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.

If one of the complaints to be consolidated is a complaint of sex-based harassment involving a student Complainant or student Respondent at a postsecondary institution, the grievance procedures for investigating and resolving the consolidated complaint must comply with the requirements in the Title IX Policy for Sex-Based Harassment.

Section 6: Grievance Procedures - General Requirements

6.1 Equitable Procedures: The grievance procedures within this Policy are designed to treat Complainants and Respondents equitably.

6.1.1 Burden of Proof and Burden of Gathering Evidence: All investigations and proceedings, including hearings, relating to sex discrimination will be conducted using a “preponderance of the evidence” (more likely than not) standard. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Millikin University not the parties.

6.1.2 Presumption of Not Responsible: The Respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the grievance process.

6.1.3 Time Frames for Grievance Process: Millikin University strives to complete the grievance process within sixty (60) business days. Millikin University strives to complete the evaluation period within five (5) business days after meeting with the Complainant, the investigation period within thirty (30) business days after initiation of complaint, the determination period within fifteen (15) business days, and the appeal within ten (10) business days. Temporary delays and/or extensions of the time frames within this Policy may occur for good cause. Written notice will be provided to the parties of the delay and/or extension of the time frames with an explanation of the reasons for such action. Examples of good cause for delay/extensions include, but are not limited to, considerations such as the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; University closures; acts of nature; or the need for language assistance or accommodation of disabilities.

6.1.4 Range of Disciplinary Sanctions: Sanctions that may be required if an individual is found responsible for violating this Policy include, but are not limited to:

(1) For Students:

- Verbal or written warning
- Mandatory educational programming or projects
- Community Service
- Probation

- Removal from housing or other campus programs/activities/leadership positions
- Suspension from school or employment
- Organizational Sanctions
- Other Educational or Reparative Actions
- Expulsion, dismissal or other separation from the University
- Measures to protect health and safety, such as drug or alcohol counseling

(2) For Employees:

- Verbal or written warning
- Disciplinary probation
- Suspension (with or without pay)
- Performance Improvement Plan
- Termination of employment
- Mandatory Educational training
- Adjustment of supervisory responsibilities
- Measures to protect health and safety, such as drug or alcohol counseling
- Sanctions of a faculty member will be implemented in a manner consistent with the requirements of Title IX and the Clery Act.

6.1.5 Prohibition Against Bias or Conflict of Interest: The Title IX Coordinator, investigator, decisionmaker, or appellate decisionmaker must not have a bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The decisionmaker may be the same person as the Title IX Coordinator or investigator.

6.1.6 Privacy Protection: Millikin University will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the grievance procedures, provided that the steps do 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.

6.1.7 Objective Evaluation of Evidence: Millikin University will conduct an objective evaluation of all evidence that is relevant, as defined and not otherwise impermissible, including both inculpatory and exculpatory evidence—and provide that credibility determinations must not be based on a person’s status as a Complainant, Respondent, or witness.

Section 7: Grievance Procedures - Investigation

Millikin University will conduct an investigation following a complaint and Notice of Allegations.

7.1 Notice of Allegations: Upon initiation of Millikin University’s grievance procedures, Millikin University will provide notice of the allegations to the parties whose identities are known which includes:

- (1) Millikin University’s grievance procedures.
- (2) Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes:
 - (i) The identities of the parties involved in the incident(s),
 - (ii) The conduct alleged to constitute sex discrimination under this Policy, and
 - (iii) The date(s) and location(s) of the alleged incident(s), to the extent that information is available to Millikin University.
- (3) A statement that retaliation is prohibited; and
- (4) A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description (report) of this evidence, and if Millikin University provides a report depicting the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.

7.1.1 Updating Notice of Allegations: If, in the course of an investigation, Millikin University decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice of allegations or that are included in a complaint that is consolidated, Millikin University will provide notice of the additional allegations to the parties whose identities are known.

7.2 Burden: Millikin University will ensure that the burden is on Millikin University—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

7.3 Witnesses: Millikin University will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

Millikin University has discretion to determine whether parties may present expert witnesses and will make that determination equally to the parties.

7.4 Unauthorized Access: Millikin University will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

7.5 Questioning of Parties and Witnesses: Millikin University will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness' credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

7.6 Advisor of Choice: Parties may be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. Millikin University may establish restrictions regarding the extent to which the advisor may participate in the grievance procedures, but the restrictions will apply equally to the parties. The advisor's role is limited to assisting, advising, and/or supporting a Complainant or Respondent. An advisor is not permitted to speak for or on behalf of a Complainant or Respondent or appear in lieu of a Complainant or Respondent.

Section 8 Grievance Procedures - Review of Evidence

Millikin University will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, and an accurate description of this evidence in the form of a report. If Millikin University provides a description of the evidence, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;

Millikin University will provide a reasonable opportunity to respond to the evidence and to the accurate description of the evidence. The parties will have five (5) business days to review the evidence and provide written response upon receipt of the evidence and report.

Parties will be provided with the name of the decisionmaker at the time of the review of evidence. If a party has a conflict of interest with the decisionmaker that party can make a request for a substitution in this role by submitting this in writing to the Title IX Coordinator at the conclusion of the review of evidence period.

Section 9: Grievance Procedures - Determination

9.1 Notification: At the conclusion of the investigation and review of the evidence and report, the decisionmaker will notify the parties in writing of the determination whether sex discrimination occurred, include the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal.

9.2 Remedies and Disciplinary Sanctions: If there is a determination that sex discrimination occurred, as appropriate, Title IX Coordinator will coordinate the provision and implementation of remedies to the Complainant and other persons identified as having had equal access to Millikin University's education program or activity limited or denied by sex discrimination, coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions, and take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur.

9.2.1 Finality of Determination: The determination regarding responsibility becomes final either on the date Millikin University provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

9.2.2 Discipline Outside of Grievance Procedures: Millikin University will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.

Millikin University will not discipline a party, witness, or others participating in Millikin University's grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Section 10: Appeals

Appeals are offered to both parties equitably to challenge the determination as to whether sex discrimination occurred and the dismissal of a complaint or allegation therein. Appeals must be made in writing and delivered to the Title IX Coordinator within three (3) Business Days of the receipt of the determination regarding responsibility or dismissal.

10.1 Bases for Appeal: Appeals may be made on the following bases:

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and
- (3) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

(4) The sanction is disproportionate with the Policy violation.

10.2 Appeal Procedures: If an appeal is submitted, Millikin University will:

(1) Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

(2) Ensure that the decisionmaker for the appeal is not the same person as the decisionmaker that reached the determination regarding responsibility or dismissal, the investigator or the Title IX Coordinator.

(3) Provide the non-appealing party with five (5) Business Days from receipt of the notification of appeal to submit a written statement in support of the outcome of the determination or dismissal.

(4) Issue a written decision describing the result of the appeal and the rationale for the result which can be one of the following:

- Affirm the decisionmaker's determination regarding the Respondent's responsibility and affirm the disciplinary sanctions and remedies, if applicable;
- Affirm the decisionmaker's determination regarding the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable;
- Remand the process back to the hearing stage for the decisionmaker to remedy any procedural irregularity or consider any new evidence;
- Reverse the decisionmaker's determination of the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable; or
- Affirm or amend the sanctions and/or remedies outlined in the determination issued under this Policy.

(5) Provide the written decision simultaneously to both parties.

10.3 Appeal Timeframe: The appellate decision-maker will release the written decision within seven (7) Business Days after the conclusion of the review of findings or sanctions.

Section 11: Informal Resolution

At any time prior to determining whether sex discrimination occurred, the parties may agree, with the support of the Title IX Coordinator, to participate in an informal resolution process facilitated by Millikin University, that that does not involve the grievance procedures.

Millikin University will not require or pressure the parties to participate in an informal resolution process and will not require waiver of the right to an investigation and determination of a

complaint as a condition of enrollment, continuing enrollment, employment, continuing employment, or exercise of any other right.

The facilitator for the informal resolution process will not be the same person as the investigator or decisionmaker in the grievance procedures.

Types of informal resolution include, but are not limited to, mediation, facilitated dialogue, conflict coaching, restorative justice, and resolution by agreement of the parties.

11.1 Discretion of Title IX Coordinator: The Title IX Coordinator has discretion to determine whether it is appropriate to offer an informal resolution and may decline to offer informal resolution despite one or more of the party's wishes. When determining whether to offer informal resolution, the Title IX Coordinator will consider whether the alleged conduct presents a future risk of harm to others.

11.2 Informal Resolution Notice: Prior to the initiation of the informal resolution process, Millikin University will provide the parties written notice that explains:

- (1) The allegations;
- (2) The requirements of the informal resolution process;
- (3) Notice that, prior to agreement to a resolution, any party has the right to withdraw from the informal process and to initiate or resume the grievance procedures;
- (4) Notice that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
- (5) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- (6) What information Millikin University will maintain and whether and how Millikin University could disclose such information for use in grievance procedures if the grievance procedures are initiated or resumed.

11.3 Potential Informal Resolution Terms: Potential terms that may be included in an informal resolution agreement include but are not limited to:

- (1) Restrictions on contact; and
- (2) Restrictions on Respondent's participation in one or more of Millikin University's programs or activities or attendance at specific events, including restrictions Millikin

University could have imposed as remedies or disciplinary sanctions had the decisionmaker determined at the conclusion of the grievance procedures that sex discrimination occurred.

11.4 Informal Resolution Availability: The informal resolution process is not permitted to resolve allegations that an employee committed sex-based harassment against a student.

Section 12: Emergency Removal and Administrative Leave

12.1 Emergency Removal: At any time after the Title IX Coordinator is given notice of sex discrimination, Millikin University may remove a Respondent on an emergency basis. Millikin University will only conduct an emergency removal after:


- (1) Undertaking an individualized safety and risk analysis,
- (2) Determining that an immediate and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and
- (3) Providing the Respondent with notice and an opportunity to challenge the decision to the Title IX Coordinator, immediately following removal.

12.2 Administrative Leave: Millikin University may place an employee Respondent on administrative leave during the pendency of the grievance process in this Policy.

Section 13: Recordkeeping

The following records will be maintained by Millikin University for at least seven (7) years:

- (1) Records documenting the informal resolution process or grievance procedures for each complaint of sex discrimination including the resulting outcome.
- (2) Records documenting the actions Millikin University took to provide supportive measures and remedies and a fair and equitable response under this Policy and Title IX.
- (3) Training materials used to provide training to all employees, the Title IX Coordinator, designees, investigators, decisionmakers, informal resolution facilitators, appellate decisionmakers, and supportive measures review administrators.

 POLICY / PROCEDURE	Effective Date: <p style="text-align: right;">10.18.24</p>	Review Dates:	Revision Dates:	
	Approved By: <i>Sarah Kottich</i>	<p style="text-align: right;">10/21/24</p>		
	Department: <p style="text-align: center;">Human Resources</p>			
	Subject: Parental, Family, or Marital Status and Pregnancy or Related Conditions			Page 1 of 6

Policy:

Millikin University will not adopt or implement any policy, practice, or procedure concerning a student’s current, potential, or past parental, family, or marital status that treats students differently on the basis of sex.

Procedures:

Pregnancy or Related Conditions

Nondiscrimination: Millikin University does not discriminate in its education program or activity against any student based on the student’s current, potential, or past pregnancy or related conditions. Millikin University does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity provided that Millikin University ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.

2.2 Pregnancy or Related Conditions means:

- (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
- (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

2.3 Employee Responsibilities: When a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student’s pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified, the employee promptly provides that person with the Title IX Coordinator’s contact information and informs that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student’s equal access to Millikin University’s education program or activity.

2.4 Notification to the Title IX Coordinator: When the Title IX Coordinator is contacted by a student or someone who has the legal right to act on behalf of the student, the Title IX Coordinator will inform the student, and if applicable, the person who notified the Title IX Coordinator of the student's pregnancy or related conditions and has a legal right to act on behalf of the student, of Millikin University's response obligations and provide Millikin University's notice of nondiscrimination.

2.5 Reasonable Modifications: Millikin University will make reasonable modifications to its policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access. Each reasonable modification will be based on the student's individualized needs. Millikin University will consult with the student to determine what reasonable modifications are appropriate. A modification that Millikin University determines would fundamentally alter the nature of its education program or activity is not a reasonable modification.

2.5.1 Student Discretion: The student has discretion to accept or decline each reasonable modification offered by Millikin University. If a student accepts an offered reasonable modification, Millikin University will implement it.

2.5.2 Examples of Reasonable Modifications: Reasonable modifications may include, but are not limited to:

- (1) Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom;
- (2) Intermittent absences to attend medical appointments;
- (3) Access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations;
- (4) Allowing a student to sit or stand, or carry or keep water nearby;
- (5) Counseling;
- (6) Changes in physical space or supplies (for example, access to a larger desk or a footrest);
- (7) Elevator access; or
- (8) Other changes to policies, practices, or procedures.

2.6 Voluntary Access to Separate and Comparable Portion of Program or Activity: Millikin University will allow the student to voluntarily access any separate and comparable portion of Millikin University's education program or activity.

2.7 Voluntary Leaves of Absence: Millikin University will allow the student to voluntarily take a leave of absence to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. To the extent that a student qualifies for leave under a leave policy maintained by Millikin University that allows a greater period of time than the medically necessary period, Millikin University will permit the student to take voluntary leave under that policy instead if the student so chooses. When the student returns to Millikin University, the student will be reinstated to the academic status and, as practical, to the extracurricular status that the student held when the voluntary leave began.

2.8 Lactation Space: Millikin University will ensure that the student can access a lactation space, which will be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

The location of the lactation space at Millikin University is Schilling, First Floor.

2.9 Limitation on Supporting Documentation: Millikin University will not require supporting documentation unless the documentation is necessary and reasonable for the recipient to determine the reasonable modifications to make or whether to take additional specific actions. Examples of situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to:

- (1) When the student's need for a specific action is obvious, such as when a student who is pregnant needs a bigger uniform;
- (2) When the student has previously provided the recipient with sufficient supporting documentation;
- (3) When the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom;
- (4) When the student has lactation needs;
- (5) Or when the specific action is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

2.10 Certification to participate: Millikin University will not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the recipient's class, program, or extracurricular activity unless:

- (1) The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
- (2) Millikin University requires such certification of all students participating in the class, program, or extracurricular activity; and
- (3) The information obtained is not used as a basis for discrimination.

Part 2: For Employees

Section 1: Status Generally

Millikin University will not adopt or implement any policy, practice, or procedure, or take any employment action, on the basis of sex:

- (1) Concerning the current, potential, or past parental, family, or marital status of an employee or applicant for employment, which treats persons differently; or
- (2) That is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

Section 2: Pregnancy or Related Conditions

2.1 Nondiscrimination: Millikin University will not discriminate against any employee or applicant for employment on the basis of current, potential, or past pregnancy or related conditions.

2.2 Pregnancy or Related Conditions means:

- (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
- (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

2.3 Supervisor and HR Responsibilities: When an employee, or a person who has a legal right to act on behalf of the employee, informs the employee's supervisor or HR of the employee's pregnancy or related conditions, unless the supervisor reasonably believes that the Title IX Coordinator has been notified, the supervisor promptly provides that employee with the Title IX Coordinator's contact information and informs that person that the Title IX Coordinator can

coordinate specific actions to prevent sex discrimination and ensure the employee's equal access to Millikin University's employment services, programs, benefits, and activities.

2.4 Comparable Treatment to Other Temporary Medical Conditions: Millikin University will treat pregnancy or related conditions as any other temporary medical conditions for all job-related purposes, including:

- (1) Employee orientation or trainings;
- (2) Performance reviews;
- (3) Initiation, duration and extensions of leave;
- (4) Payment of disability income;
- (5) Accrual of seniority and any other benefit or service;
- (6) Reinstatement; and
- (7) Under any fringe benefit offered to employees by virtue of employment.

2.5 Voluntary Leaves of Absence: If Millikin University does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, Millikin University will treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

2.6 Lactation Time and Space:

2.6.1 Lactation Time: Millikin University will provide reasonable break time for an employee to express breast milk or breastfeed as needed.

2.6.2 Lactation Space: Millikin University will ensure that an employee can access a lactation space, which must be a space other than a bathroom that is clean, shielded from view, free from intrusion from others, and may be used by an employee for expressing breast milk or breastfeeding as needed.

The location of the lactation space at Millikin University is Schilling, First Floor.

Section 3: Pre-Employment Inquiries

3.1 Marital Status: Millikin University will not make a pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is “Miss or Mrs.”

3.2 Sex: Millikin University may ask an applicant for employment to self-identify their sex, but only if this question is asked of all applicants and response will not be used as a basis for discrimination.

Responsibility for the interpretation and administration of this policy resides solely with the Department of Human Resources. The University reserves the right to amend or discontinue this policy at any time.