



# Marshall B. KETCHUM UNIVERSITY

University Student Affairs

## Title IX Grievance Procedures

MBKU is committed to providing programs and activities, including but not limited to admission, educational and employment programs and activities, free from prohibited discrimination on the basis of sex. Title IX of the Education Amendments of 1972, including the amendments thereto, also prohibits unlawful discrimination on the basis of sex in federally funded education programs and activities, and MBKU is required by Title IX and its implementing regulations not to discriminate in such a manner. Inquiries concerning the application of Title IX and its implementing regulations to MBKU may be referred to MBKU's Title IX Coordinator.

MBKU has established grievance procedures for the prompt and equitable resolution of complaints alleging noncompliance with Title IX or actions that would be prohibited by Title IX. The procedures apply to complaints against employees, other students or third parties, including complaints filed by students or employees, or on their behalf, alleging sexual violence.

This document outlines the Title IX grievance procedures. The Title IX Coordinator with ultimate oversight responsibility retains discretion to determine whether a procedure in another policy will be used or is more appropriate. The Title IX grievance procedures do not replace MBKU's other policies and procedures, which may be pursued in addition to these procedures.

Additional information and training for students regarding Title IX, bystander intervention and social responsibility may be found on the [Student Achievement Center Moodle page](#).

### **MBKU's Title IX Coordinator**

The Vice President for Student Affairs is the Title IX Coordinator with ultimate oversight responsibility for coordinating MBKU's efforts to comply with and carry out its responsibilities under Title IX, including investigations of complaints. The deputy coordinators assist the Vice President for Student Affairs in fulfilling MBKU's Title IX responsibilities (collectively, the Vice President for Student Affairs and deputy coordinators are referred to herein as the "Title IX Coordinator").

### **Harassment**

Sexual harassment, whether committed by students, employees or third parties, may constitute sex discrimination prohibited by Title IX regardless of the sex of the alleged harasser. Sexual harassment includes unwelcome conduct of a sexual nature, including expressly or impliedly conditioning a benefit (or the absence of a detriment) on sexual favors, or the creation of a hostile environment through visual, verbal or physical conduct. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature (e.g., sexual violence). Sexual harassment can deny or limit, on the basis of sex, the student or employee's ability to participate in or to receive benefits, services, or opportunities in MBKU's programs and activities. Sexual harassment can also include harassment because of pregnancy, child birth or parental status. Gender-based harassment (e.g., non-sexual conduct based on sex or sex-stereotyping) may also constitute prohibited sex discrimination under Title IX.

### **Grievance Procedures**

All complaints concerning noncompliance with Title IX or actions that would be prohibited by Title IX should be made to the Title IX Coordinator.

### Informal Resolution of Complaints

Where appropriate, individuals who believe that actions prohibited by Title IX have taken place are encouraged to attempt to informally resolve their complaints with the offending party or parties. Where informal resolution would be inappropriate (e.g., sexual assault), or if after doing so the situation has not been satisfactorily resolved, then individuals should immediately make a complaint, preferably in writing, to the Title IX Coordinator. Individuals are not required to pursue informal efforts or to complain to their supervisor, and may end informal efforts at any time.

### Formal Grievance Process

Individuals may initiate the formal grievance process at any time by making a complaint with the Title IX Coordinator. The complaint should include details of the conduct (e.g., date, time, location), names of the individuals involved (complainant, victim, perpetrator), the names of any witnesses and any relief sought from MBKU. With limited exceptions (e.g., certain mental health counseling employees), MBKU employees are required to report sex discrimination to the Title IX Coordinator. Other individuals, including students and third parties, are encouraged to report sex discrimination. Individuals do not need to determine whether sexual discrimination occurred before reporting it to the Title IX Coordinator.

Complaints will be investigated thoroughly, promptly, impartially and fairly by qualified persons to determine whether the issue exists or the conduct occurred and if so, the necessary actions that MBKU will take to remedy the issue or conduct for the complainant and the broader MBKU community. MBKU will investigate complaints regardless of where the conduct occurred to determine whether the conduct occurred in MBKU's educational or employment setting or has a continuing effect on MBKU's programs or activities.

The Title IX Coordinator will investigate complaints by applying a preponderance of the evidence standard (i.e., it is more likely than not that sexual harassment, discrimination and/or violence occurred), and will endeavor to resolve complaints within 60 days, though the actual time will vary depending on the circumstances of each complaint.

The investigation will provide all parties appropriate due process, appropriate documentation and tracking for reasonable progress and reach reasonable conclusions based on the evidence collected. Both the complainant and alleged perpetrator will have an opportunity to present witnesses and evidence. MBKU will institute appropriate interim measures (e.g., referral to, or provision of, counseling, advocacy and support services) and take remedial action to stop any prohibited discrimination based on sex (e.g., no-contact orders, suspension, expulsion, termination; increased monitoring, supervision, or security; training and education), address the discriminatory effects on the complainant and others (e.g., support services; changing living arrangements, course schedules, assignments or tests, as appropriate) and prevent future discrimination (publicizing MBKU's policies; surveys regarding sexual violence, counseling services). Complainants who are dissatisfied with an ongoing investigation or any interim or remedial measures instituted by a Title IX Deputy may submit a written appeal to the Title IX Coordinator with ultimate oversight responsibility.

MBKU will provide written notice to the complainant and respondent of the outcome of the complaint. Complainants and/or respondents that wish to appeal the investigation outcome may do so by submitting a written appeal to the University President within ten (10) days of outcome notice. A decision by the University President is final.

### **Confidentiality**

Individuals may request available confidential advocacy, counseling and/or other student services from the Title IX Coordinator.

MBKU strongly supports students' interests in confidentiality. MBKU is particularly aware of the sensitive nature of complaints of sexual violence. The Title IX Coordinator will consider requests by complainants to maintain their confidentiality. A request for confidentiality may limit the Title IX Coordinator's ability to take steps to investigate and respond consistent with the request for confidentiality (e.g., pursuing discipline against a perpetrator).

Investigations and complaints are kept as confidential as possible, although complete confidentiality cannot be guaranteed. Some situations require that the Title IX Coordinator override a complainant's request for confidentiality in order to meet MBKU's obligations under Title IX and continue to provide a safe and nondiscriminatory environment for all students and employees. Nevertheless, the Title IX Coordinator will take all reasonable steps to respect a complainants' request for confidentiality while still pursuing other available means to address sexual discrimination, including taking appropriate action to protect the complainant. Similarly, the Title IX Coordinator may proceed with investigation of a complaint even if the complainant asks the Title IX Coordinator not to investigate or seek action against the alleged perpetrator.

### Other investigations and complaints

The Title IX Coordinator has discretion at any time to inform other officials of potential violations of law and/or MBKU's policies and procedures. MBKU's primary concern is student and employee safety. Use of alcohol or drugs never makes the victim at fault for sexual violence.

The Title IX Coordinator will coordinate with other ongoing MBKU or criminal investigations. Individuals may file a criminal complaint at the same time that they make a Title IX complaint or are involved in a Title IX investigation.

### **Retaliation**

MBKU will not tolerate any retaliation against any individual who has expressed a good faith complaint, or who has participated in an investigation. Title IX also prohibits unlawful retaliation. Individuals who believe they have been subjected to unlawful retaliation should immediately inform the Title IX Coordinator.

### **Contact Information for the Title IX Coordinator**

#### Title IX Coordinator with Ultimate Oversight Responsibility

Carmen Barnhardt, OD, MS Ed  
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#### Title IX Deputy for Complaints from Employees

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#### Title IX Deputy for Complaints from Students

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