

# MILESTONES BEHAVIORAL SERVICES (“MBS”)

## TITLE IX POLICY

(UPDATED AUGUST 2023)

### I. SEX DISCRIMINATION AND SEXUAL HARASSMENT PROHIBITED

MBS is committed to creating and maintaining a community where all individuals enjoy freedom from discrimination, including discrimination on the basis of sex. In accordance with Title IX of the Education Amendments of 1972 (Title IX), MBS prohibits discrimination on the basis of sex, including sexual harassment, against any individual participating in any MBS education programs or activities - including students, employees, and applicants for admission or employment. Title IX states:

*No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...<sup>1</sup>*

For the purposes of this policy, “education program or activity” means locations, events, or circumstances where MBS exercises substantial control over both the Respondent (*defined below*) and the context in which the alleged sexual harassment, discrimination, and/or retaliation occurs.

Any person may report sex discrimination, including sexual harassment, whether or not the person making the report is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment. This includes the parents and legal guardians of students.

In addition to reporting requirements under the law, mandated reporters are expected to report actual or suspected instances of sexual harassment or discrimination involving a student to a Title IX Coordinator.

MBS will follow this policy and the procedures outlined herein to respond to all claims of sex discrimination or sexual harassment, as defined herein.

Retaliation against a person who made a report or complaint, or assisted, participated, or refused to participate in any manner in an investigation or resolution of a report or complaint, is strictly prohibited. Retaliation includes intimidation, threats, coercion, discrimination, charging an individual with code of conduct violations or sex discrimination or harassment for the purposes of interfering with a Title IX investigation

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<sup>1</sup> 20 U.S.C.A. § 1681.

or proceeding, and/or adverse actions related to education or employment. Any individual who believes they have been retaliated against in violation of this Policy should immediately contact a Title IX Coordinator.

## II. DEFINITIONS

**Complainant** - an individual who is alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment or retaliation for engaging in a protected activity.

**Respondent** – an individual who has been reported to be the perpetrator of conduct that could constitute sex discrimination or sexual harassment or retaliation for engaging in a protected activity.

Complaint(s) and Respondent(s) are referred to together as “**parties**” or each individually as a “**party**”.

**Sexual harassment** - conduct on the basis of sex that satisfies one or more of the following:

1. “*Quid Pro Quo*” *Harassment* - An employee conditioning the provision of an aid, benefit, or service of MBS on an individual's participation in unwelcome sexual conduct.

OR

2. *Hostile Educational/Work Environment* - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to MBS's education program or activity.

OR

3. *Sexual assault*, as defined in 20 U.S.C. § 1092(f)(6)(A)(v), which is an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, and defined therein, including rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.

OR

4. *Dating violence*, as defined in 34 U.S.C. § 12291(a)(10), which means violence committed by a person—

- i. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- ii. where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - (A) The length of the relationship.
  - (B) The type of relationship.
  - (C) The frequency of interaction between the persons involved in the relationship.

OR

5. *Domestic violence*, as defined in 34 U.S.C. § 12291(a)(8), which includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who--
- i. is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
  - ii. is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - iii. shares a child in common with the victim; or
  - iv. commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

OR

6. *Stalking*, as defined in 34 U.S.C. § 12291(a)(30), which means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
- i. fear for his or her safety or the safety of others; or
  - ii. suffer substantial emotional distress.

**Sex Discrimination** – for the purposes of this policy, sex discrimination includes conduct with the purpose or effect of denying, depriving, or limiting an individual's

access to or participation in any program, activity, or benefit of MBS because of that individual's actual or perceived sex (which includes gender identity and sexual orientation).

### **III. HOW TO MAKE A REPORT OF SEX DISCRIMINATION OR HARASSMENT**

Any individual who wishes to make a report or file a formal complaint pursuant to this Policy may contact one of MBS's Title IX Coordinators in person, by e-mail, by telephone, or by mail at the following addresses:

#### MBS TITLE IX COORDINATOR

Ana Lisboa  
Human Resources Manager  
339 Boston Post Road  
Orange, CT 06477  
ALisboa@MBS-Inc.org  
203-799-4110 ext. 660

Individuals may also choose to file complaints with the following Connecticut and federal agencies:

Office for Civil Rights  
Boston Office  
US Department of Education  
5 Post Office Square, 8<sup>th</sup> Floor  
Boston, MA 02109-3921  
1-800-877-8339  
[Or go to: <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>]

Connecticut Commission on Human Rights and Opportunities  
Central Office  
450 Columbus Boulevard  
Hartford, CT 06103-1835  
860-541-3400  
[Or go to: <https://portal.ct.gov/CHRO/Commission/Commission/Contact-Us>]

Equal Employment Opportunities Commission  
Boston Area Office

JFK Federal Building  
15 New Sudbury Street, Room 475  
Boston, MA 02203-0506  
1-800-669-4000  
[Or go to: <https://www.eeoc.gov/field-office/boston/charge>]

In addition to reporting requirements under the law, mandated reporters are expected to report actual or suspected instances of sexual harassment or discrimination involving a student to a Title IX Coordinator.

#### **IV. GRIEVANCE PROCESS**

MBS recognizes its obligations under the law to respond promptly and in a manner that is not deliberately indifferent to all allegations of sex discrimination and sexual harassment.<sup>2</sup> MBS encourages the reporting of complaints and information as soon as possible after the event takes place.

In all cases where MBS has actual knowledge<sup>3</sup> of sexual harassment or allegations of sexual harassment, MBS will conduct a prompt and equitable investigation. Generally, MBS will attempt to complete the investigation and issue a written determination of responsibility within forty-five (45) days of receipt of a formal complaint, however MBS may alter or extend this time with written notice to the parties. The time it takes to complete an investigation and issue a written determination of responsibility may vary based upon certain factors such as the complexity of the investigation and the severity and extent of the alleged conduct, school breaks, and any parallel criminal investigations.

##### **A. Initial Meeting**

Upon receipt of any report of sexual harassment occurring in an MBS program or

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<sup>2</sup> A response is deliberately indifferent if it is clearly unreasonable in light of the known circumstances.

<sup>3</sup> “Actual knowledge” is defined by regulation to mean notice of sexual harassment or allegations of sexual harassment to (i) a Title IX Coordinator or (ii) any official who has authority to institute corrective measures on behalf of the school or (iii) any employee of an elementary or secondary school. See, 34 C.F.R. § 106.30 (a).

activity, a Title IX Coordinator<sup>4</sup> will promptly schedule a meeting with the Complainant<sup>5</sup> in order to provide the Complainant a general understanding of this Policy and to identify forms of supportive measures available to the Complainant with or without the filing of a formal complaint, and to explain the process for filing a formal complaint. The initial meeting may also involve a discussion of any specific supportive measures that may be appropriate.

At the initial meeting, the Title IX Coordinator will seek to determine whether the Complainant wishes to proceed with a formal resolution. If so, a written document must be filed by the Complainant or signed by the Title IX Coordinator alleging harassment against a Respondent (the “**formal complaint**”). The Complainant’s wishes regarding whether to investigate shall be respected unless the Title IX Coordinator determines that initiating an investigation over the wishes of the Complainant would not be clearly unreasonable in light of the known circumstances, in which case the Complainant will be notified of the Title IX Coordinator’s decision to proceed with an investigation.

Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not the Complainant or otherwise a party to a complaint proceeding under this Policy.

In circumstances where the Complainant and Respondent are both employees of MBS and the Complainant decides not to file a formal complaint under this Policy, the Title IX Coordinator shall document same in writing and refer the Complainant in writing to the appropriate Human Resources employee to investigate the complaint pursuant to the Freedom from Harassment policy of the MBS Employee Handbook.

In circumstances where the Complainant and Respondent are both employees of MBS and Title IX Coordinator determines at the Initial Meeting that there is no jurisdiction under Title IX for any of the reasons set forth in Section I. Dismissal, below, the Title IX Coordinator shall document same in writing, including the reasons therefor, and refer the Complainant in writing to the appropriate Human Resources employee to investigate the complaint pursuant to the Freedom from Harassment policy of the MBS Employee Handbook.

## **B. Supportive Measures**

Supportive measures are non-punitive, non-disciplinary, individualized services which may be offered, as reasonably available, without fee or charge to the Complainant or Respondent, and which are designed to restore or preserve equal access to MBS’s education program or activity without unreasonably burdening the other party.

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<sup>4</sup> Only one of the two Title IX Coordinators will be assigned to each formal complaint/ investigation.

<sup>5</sup> Where the Complainant is a student of MBS, all communications and notices required under this Policy will include the Complainant’s parent(s) and/or legal guardian(s).

Supportive measures may include (without limitation) modification of schedules, counseling, mutual restrictions on contact between the parties, leaves of absences, reassignment, and other similar measures.

Supportive measures will be offered and provided regardless of whether the Complainant chooses to proceed with a formal complaint.

MBS will keep confidential any supportive measures provided to the Complainant or Respondent to the extent that maintaining such confidentiality would not impair the ability of MBS to provide the supportive measures.

The Title IX Coordinator is responsible for coordinating and effective implementation of supportive measures.

### **C. Formal Notice to the Parties**

Upon the submission of a formal complaint, the Title IX Coordinator will provide a written Notice simultaneously to both the Complainant(s) and the Respondent(s)<sup>6</sup> notifying the parties of:

1. MBS's Title IX Grievance Process;
2. The conduct alleged in the formal complaint, including sufficient details known at the time, and giving sufficient time to prepare a response before any initial interview;
3. The identities of the parties involved in the incident;
4. The date and location of the incident;
5. Respondent's entitlement to a presumption that they are not responsible for the conduct alleged, and that a determination of responsibility is made at the conclusion of the grievance process;
6. The parties' rights to have an advisor of their choice at the party's expense, who may be (but is not required to be) an attorney;
7. The parties' rights to inspect, review and comment on investigative evidence; and

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<sup>6</sup> Where the Respondent is a student of MBS, all communications and notices required under this Policy will include the Respondent's parent(s) and/or legal guardian(s).

8. The effect of making false statements or knowingly submitting false information during the grievance process.

If, during the course of investigation, MBS learns of additional allegations or determines that additional allegations will be investigated as part of the pending complaint, the Title IX Coordinator shall provide written notice of the additional allegations to any identified Complainant(s) or Respondent(s).

#### **D. Consolidation of formal complaints**

MBS may consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

#### **E. Investigation**

The Title IX Coordinator will designate an Investigator (who shall not be the Title IX Coordinator) to conduct an objective investigation into any formal complaint. The Investigator serves as a neutral fact-finder. The Investigator must be appropriately trained with respect to Title IX investigations, must be unbiased, and have no conflict of interest in the case at hand.

MBS carries the burden of gathering sufficient facts to reach a determination of responsibility. The Investigator will interview both parties and any relevant witnesses, and gather and review evidence related to the allegations, which may include, without limitation: documents, audio recordings, video recordings, social media posts, and cell phone records. An Investigator may only access, consider, or disclose a party's medical, psychological, or similar treatment records with the voluntary written consent of the party.

Both parties will have an equal opportunity to present evidence and witnesses to the Investigator, both inculpatory (favoring the Complainant) and exculpatory (favoring the Respondent).

Neither party will be limited in their ability to discuss the allegations or gather and present relevant evidence. However, neither party shall harass or retaliate against any other individual, nor shall they violate any other applicable law, rule, or regulation.

The parties will be given written notice of any investigative interviews or meetings.



If a party's participation is invited or expected, they shall be given written notice of the date, time, location, participants, and purpose of all hearings, investigative interview, or other meetings, with sufficient time for the party to prepare to participate.

Both parties may be accompanied at any meeting or grievance proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. MBS reserves the right to establish restrictions regarding the extent to which the advisor may participate in the meeting or proceeding and shall apply any such restrictions equally to both parties.

The Investigator will not make credibility determinations based solely on a person's status as Complainant, Respondent, or witness. There shall be a presumption in all investigations that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

After collecting as much relevant information as possible, the Investigator will create an investigative report that fairly summarizes relevant evidence.

Prior to completion of the investigative report, the Investigator must provide to each party an equal opportunity to review and inspect the evidence obtained as part of the investigation that is directly related to the allegations raised, including inculpatory and exculpatory evidence whether obtained from a party or other source, and regardless of whether such evidence may be relied upon in reaching a determination of responsibility. The Investigator must send to each party and their advisors (if any) the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten (10) days to submit a written response, which the Investigator will consider prior to completion of the investigative report.

The Investigator will then complete an investigative report and send it to each party and their advisor, if any, in an electronic format or hard copy, for their review and written response. The investigative report must be sent at least ten (10) days prior to the time of determination of responsibility.

Once the investigative report is provided to the parties, the Decision-Maker (defined below) shall afford each party equal opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. All questioning shall exclude evidence about the Complainant's sexual predisposition or prior sexual behavior unless such questions and evidence are offered to prove someone other than the Respondent committed to conduct alleged by the Complainant or if the questions or evidence are offered to prove consent.

The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

## **F. Determination of Responsibility**

The Title IX Coordinator will designate a Decision-Maker(s) (who shall not be the Title IX Coordinator or the Investigator) to issue a written determination of responsibility. The Decision-Maker may be an individual or a panel, must be appropriately trained with respect to Title IX investigations, including with respect to issues of relevance of questions and evidence. Title IX Decision-Makers must be unbiased and have no conflict of interest in the case at hand.

To reach a determination regarding responsibility, the Decision-Maker must apply the standard of proof called a “preponderance of the evidence.” The preponderance of the evidence standard of proof means that the relevant information and evidence gathered lead to a conclusion that the allegations are more likely true than not true. In other words, there is a greater than 50% chance that the allegations are true.

The Decision-Maker’s written determination must include:

1. Identification of the allegations potentially constituting sexual harassment as defined herein;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the MBS’s code of conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the MBS’s education program or activity will be provided to the Complainant; and
6. The procedures and permissible bases for an appeal.

The written determination shall be provided to the parties simultaneously. The determination regarding responsibility shall become final on either (i) the date that MBS provides the parties with the written determination of the result of the appeal, if any, or (ii) if no appeal is filed, the first date on which an appeal would no longer be considered timely.

The Title IX Coordinator is responsible for effective implementation of any remedies.

## **G. Appeals**

Any party may appeal from a determination regarding responsibility or from the dismissal of a formal complaint or any allegations therein on the following bases:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, Investigator(s), or Decision-Maker(s) had a conflict of interest or bias for or against complainant(s) or respondent(s) generally, or the individual Complainant or Respondent, that affected the outcome of the matter.

MBS reserves its right to offer additional bases for an appeal, which shall be offered equally to both parties.

Any such appeal must be submitted in writing to Ana Lisboa, who shall serve as the Appeal Decision-Maker, within ten (10) days of delivery of the written determination.

Ana Lisboa  
Human Resources Manager  
339 Boston Post Road  
Orange, CT 06477  
ALisboa@MBS-Inc.org  
203-799-4110 ext. 660

The Appeal Decision-Maker shall not be the Title IX Coordinator or the Investigator or the Decision-Maker. The Appeal Decision-Maker must be appropriately trained with respect to Title IX investigations and appeals, including with respect to issues of relevance of questions and evidence. Appeal Decision-Makers must be unbiased and have no conflict of interest in the case at hand.

Also upon receipt of an appeal, MBS shall notify both parties in writing and give both parties an equal opportunity to submit a written statement in support of or challenging the written determination.

Except as required to explain the basis of new information, an appeal will be limited to a review of the written record of the investigation, the written determination, and the parties' written statements on appeal.

The Appeal Decision-Maker may affirm, reverse, or modify the written determination and/or any sanctions imposed, or may remand to the Investigator or Decision-Maker for further action.

The Appeal Decision-Maker will issue a written decision simultaneously to both parties which describes the result of the appeal and the rationale for the result. The written appeal decision is the final decision of MBS and no further appeals are permitted under this Policy.

## **H. Sanctions**

Sanctions and remedies will be determined on a case-by-case basis by the Decision-Maker(s). Sanctions may include, but are not limited to, required training, a written warning, suspension or expulsion of a student, or suspension or termination of an employee's employment with MBS. The Decision-Maker may impose or recommend any sanction that they find to be fair and proportionate to the violation and in accordance with MBS policies.

Remedies may include, but are not limited to, offers of counseling, education, changes or modifications to class or work schedules or assignments, provision of additional supervision, and other actions as deemed appropriate under the circumstances present in the case.

The Title IX Coordinator is responsible for implementing any remedies.

## **I. Dismissal**

MBS shall dismiss any formal complaint made under this Policy if at any time it determines that it lacks jurisdiction under Title IX because the conduct alleged in the formal complaint:

1. would not constitute sexual harassment as defined in this policy, even if proved;
2. did not occur in an education program or activity of MBS;
3. or did not occur against a person in the United States.

MBS may also dismiss any formal complaint under this Policy if at any time:

1. The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations;

2. The Respondent is no longer enrolled in or employed by MBS; or
3. Specific circumstances exist that prevent MBS from gathering evidence sufficient to reach a determination as to the formal complaint or allegations. Examples include, but are not limited to, a significant passage of time from the date of the allegation(s) in the complaint to the date the complaint is filed that makes investigation impracticable, or where the Complainant has stopped participating in the process.

Dismissal of a formal complaint does not preclude MBS from offering supportive measures to any party.

Dismissal of a formal complaint under this policy does not preclude MBS from taking action pursuant to other applicable policies, procedures, codes of conduct, or rules.

Upon dismissal of any formal complaint under this section, prompt written notice of the dismissal and the reason(s) therefor will be provided simultaneously to Complainant and Respondent.

## **V. EMERGENCY REMOVAL**

MBS may remove a Respondent from its education program or activities on an emergency basis if, after an individualized safety risk and analysis, MBS determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

MBS may also place a non-student employee Respondent on administrative leave during the pendency of the grievance process.

This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

## **VII. RECORDKEEPING**

MBS will create and maintain for a period of seven (7) years, records of any actions, including supportive measures, taken in response to a report or formal complaint made pursuant to this Policy, including any determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, any remedies provided to the

Complainant, any appeal that resulted therefrom.

In each instance, MBS shall also document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its education program or activity. If supportive measures were not provided, then MBS shall also document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit MBS in the future from providing additional explanations or detailing additional measures taken.

MBS shall also maintain for a period of seven (7) years records of all materials used to train Title IX Coordinators, investigators, and decision-makers. Such materials shall also be available on the MBS website.