

Campus and Malone-Related Sexual Misconduct Policy

Malone is committed to the person of Jesus Christ and to the concept that the principles and practices set forth in the Holy Scriptures should enhance and be evident in the life of every person who embraces the Christian faith. Because of this, and for the benefit of our students and employees, Malone maintains high standards of conduct by employees and students, while on Malone property, or in connection with Malone activities or programs whether on or off campus. Any sexual harassment, assault, rape or other sexual misconduct, by or against students or employees, either on Malone property or time, or in connection with any Malone-related business, program or activity, is strictly forbidden and will not be tolerated.

Malone reserves the right to take appropriate disciplinary action against any student or employee determined by Malone to have engaged in sexual misconduct, whether or not the criminal justice system prosecutes or convicts such individual. Any such disciplinary action, up to and including student dismissal or employment termination, will be taken after a review of the pertinent facts, pursuant to applicable Malone policies and procedures.

Sexual misconduct is non-consensual sexual conduct, such as, but not limited to, intentional touching (either of the victim, or a forcing of the victim to touch, directly or through clothing) of another person's genitals, breasts, thighs, buttocks or other sexually-related areas; rape (non-consensual sexual intercourse, whether by a stranger or acquaintance; attempted rape; non-consensual oral sex or anal intercourse); or non-consensual sexual penetration with an object or substance. Non-consensual acts are those committed by force, intimidation, or through exploitation of the victim's mental or emotional incapacity or physical helplessness or vulnerability, or otherwise without the victim's lawful, voluntary consent.

Verbal misconduct, without any accompanying physical contact, such as described above, is not generally defined as sexual misconduct for the purpose of this policy. However, such verbal misconduct may constitute sexual harassment, which also is prohibited under Malone regulations and is specifically addressed in other materials of Malone. Complaints related to sexual or other unlawful harassment initially should be reported in the same manner as sexual misconduct complaints; but thereafter such matters may be processed in accordance with appropriate Malone unlawful harassment policy.

According to guidelines published by the Equal Employment Opportunity Commission, unlawful sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature, or based on gender or sex when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Unlawful sexual harassment may include, without limitation, verbal slurs, negative stereotyping, hostile or demeaning acts (including jokes or teasing) and written or graphic material, that shows animosity, aversion or disparagement toward an individual or group, based upon sex or gender. Malone will not permit or condone unlawful sexual harassment of or by any employee of Malone, on Malone property, business or activity, or in connection with Malone employment.

Further information regarding Malone Unlawful Harassment Policy can be found below.

Misconduct covered by Federal, state, or local law may overlap with activities covered by the rules of Malone. However, criminal law and the rules of Malone operate independently in various respects, and they are not necessarily substitutes for each other. Thus, Malone may enforce its own rules and policies, whether or not criminal proceedings are commenced or anticipated; and Malone may use information received from third parties, such as law enforcement agencies and the courts, to determine whether rules of Malone have been broken. Membership or participation in the Malone community does not exempt anyone from Federal, state, or local law, but rather results in additional obligations to abide by regulations of Malone.

A student or employee accused of sexual misconduct has the right to receive notice of the alleged misconduct and violated standard(s). Such accused also will be given an opportunity to hear the evidence against him or her and to present a response. Malone is not required to allow an attorney to present the student's or employee's case, or to have any formal role in the disciplinary process or in any related grievance proceedings. An action by Malone against any student or employee for sexual misconduct may be commenced on the basis of a reasonable belief that a violation of Malone rules or standards has occurred. Such reasonable belief may be based upon a written, signed complaint by the aggrieved party and/or by another person, appropriately investigated. The

accuser and the accused have equivalent opportunities to have others present during Malone disciplinary proceedings. The accuser and accused also are both entitled to learn the outcome of such proceedings.

Students and employees at all times should be aware of their option to report Malone-related sexual misconduct to Malone and/or to law enforcement agencies. Furthermore, they should be aware of available local institutions, such as the Stark County Rape Crisis Center, for immediate assistance in cases of rape or sexual assault.

Student or employee sexual misconduct which occurs off Malone property or time, may be cause for disciplinary action against a student or employee, up to and including termination or expulsion, as appropriate, if such conduct has occurred in connection with any Malone business, program or activity, or if it reflects adversely upon the safety, well-being or other legitimate interests of Malone, its employees or students.

A student or employee accused of sexual misconduct has the right to remain silent. However, such silence may be a basis for determination of a violation of Malone's rules, whether or not such misconduct may support a finding of criminal guilt. If a criminal action has been filed, Malone may still proceed with its case, advising the employee or student that he or she may remain silent if so desired.

Sexual misconduct complaints received by Malone are determined by Malone officials or groups which deal with other such complaints as appropriate.

In addition to pursuing criminal action and/or lodging an appropriate complaint through Malone administration, a student or employee who is a victim of sexual misconduct may bring civil suit against the accused for monetary damages and other relief.

Both the accuser and accused have the following rights: to receive an explanation of Malone investigative and hearing process; to have a fair, partial and relatively speedy hearing; to have someone accompany them throughout the hearing; to know ahead of time the names of witnesses to be called at the hearing; to testify (or not to testify) on their own behalf; to be informed in a timely manner about the outcome of the hearing; to have a closed hearing, unless both parties otherwise agree, and an appropriate appeal process. Also, the accused and accuser are bound by rules of confidentiality regarding the investigative and hearing process.

Furthermore, the accuser has the rights: not to have irrelevant past sexual history discussed during the hearing; to remain silent for the entire proceeding and to inspect evidence presented; to make a victim impact statement if the accused has been found to violate Malone standards; and not to have his or her identity revealed outside the confidential proceedings, without consent, except to those with a legitimate need to know such information or as otherwise required or permitted by law.

The accused has the right to an explanation of the charges, to be presumed innocent, and to remain silent or to testify on his or her behalf.

Written protocol for receiving and processing reports of sexual misconduct:

1. Each accuser should submit a detailed written, signed complaint as soon as is reasonably possible, in order to enhance Malone's ability to conduct a full and fair investigation. For students, this written report is to be submitted to one of the following: Chris Abrams, Vice President for Student Development. For employees, this written report is to be submitted to either: Richard Rieder, Vice President and Equal Employment Opportunity Manager; Michael Fairless, Director of Human Resources and Assistant Equal Employment Opportunity Manager; and Maureen Adams, Director of Employee Benefits and Payroll.
2. Upon receipt, the written complaint will then be reviewed by appropriate Malone officials.
3. A reasonably thorough and appropriately confidential investigation will be conducted involving the accuser and the accused.
4. Appropriate action will be taken as a result of the investigation.