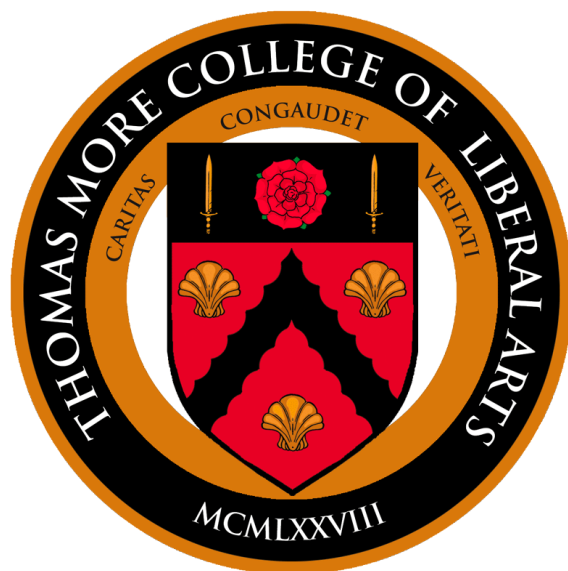


THOMAS MORE COLLEGE OF LIBERAL ARTS



TITLE IX STATEMENT AND POLICY ACADEMIC YEAR 2024 – 2025

I. PROLOGUE

Sexual Misconduct Policy and Procedure

As a Catholic college, the Thomas More College of Liberal Arts expects all its members to observe standards of Christian modesty and chastity in dress, speech, and conduct, particularly in their relations with one another, according to their state of life.

Thomas More College holds that sexual activity of any nature is designed by God to be expressed solely within the sacramental relationship of marriage between one man and one woman and is intended by God as a partnership of the whole of life, “ordered toward the good of the spouses and the procreation and education of offspring” (CCC, 1601). Thus, sexual acts outside of marriage, being also detrimental to the happiness of those engaged in such acts, are contrary to God’s design and the teachings of the Catholic Church and, therefore, strictly prohibited. Sexual acts outside of marriage make the student(s) subject to a disciplinary hearing and possible suspension or expulsion.

Sexual offenses of any kind make the student subject to a disciplinary hearing and/or expulsion.

The definitions of sexual offenses below describe the minimum legal standards for conduct, and they set forth terms that help determine criminal liability and legal responsibility. The College and the Church, as expressed and upheld by this code of conduct, have higher expectations.

Scope

The Thomas More College *Title IX Policy* applies to administrators, faculty, and other College employees; students; applicants for employment; customers; third-party contractors; and all other persons who participate in the College’s educational programs and activities, including third-party visitors on campus. The College’s prohibition of sexual discrimination and sexual harassment extends to all aspects of its educational programs and activities, including, but not limited to, admissions, financial aid, employment, academics, housing, and student services.

The College has jurisdiction over conduct covered by this policy that occurs on campus, during an official College program (regardless of location), or off campus when the conduct could create a detrimental environment on campus. The College will investigate all complaints made under this policy and, if necessary, take action to prevent the recurrence of sex discrimination and remedy its effects.

II. STATEMENT, DEFINITIONS, AND REPORTING

Title IX Statement

It is the policy of Thomas More College (TMC) to comply with Title IX of the Education Amendments of 1972 and its implementing regulations, which prohibit discrimination based on sex, in the College's educational programs and activities. Title IX and its implementing regulations also prohibit retaliation for asserting claims of sexual discrimination. TMC has designated Tryphena Reidy as the Title IX Coordinator and Alicia Dow as the Deputy Title IX Coordinator. The Title IX Coordinator and Deputy Title IX Coordinator coordinate TMC's compliance with Title IX and receive inquiries regarding Title IX, including complaints of sexual discrimination.

Where discrimination, harassment and sexual misconduct are involved, this policy shall supersede all other policies and procedures set forth in all other TMC policies and handbooks. Additionally, the Department of Education has stated that if there is a direct conflict between the requirements of Family Educational Rights and Privacy Act (FERPA) and the requirements of Title IX of the Education Amendments of 1972 (Title IX), such that enforcement of FERPA would interfere with the Title IX's purpose of eliminating sex-based discrimination in higher education, the requirements of Title IX override any conflicting FERPA provisions.

All observations of Federal and State Regulations are limited by Catholic teaching and therefore, may not be binding in any matter contrary to the authentic teachings, tenets, traditions, and enduring beliefs of the Roman Catholic Church.

Definition of Sexual Misconduct

"Sexual misconduct" is an umbrella term covering, but not limited to, sexual discrimination, sexual harassment, sexual violence/assault, domestic violence, dating violence, stalking, indecent exposure, sexual exhibitionism, use of communication systems to send sexual material and messages, or any conduct prohibited by applicable law. TMC's understanding of "sexual offense" entails more than conduct prescribed by law.

Definition of Sexual Discrimination

Sexual discrimination occurs when persons are excluded from participation in, or denied the benefits of, any TMC program or activity because of their sex. Sexual discrimination can include adverse treatment based on one's sex, as well as other prohibited conduct outlined below. Sexual discrimination also includes discrimination based on pregnancy or parenting.

Sexual Harassment

Sexual harassment of any person is strictly prohibited. Sexual harassment means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when either:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment, education, on-campus living environment, or participation in a TMC activity or program.
- Submission to or rejection of such conduct is used or threatened to be used as the basis for decisions affecting employment, education, on-campus living environment, or participation in a TMC activity or program.
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance by creating an intimidating, hostile, or offensive environment for employment, education, on-campus living, or participation in a TMC activity or program.

Sexual harassment can occur between and among supervisors or managers and subordinates, faculty and staff or students, peers, vendors, subcontractors, visitors, employees, students, or any combination thereof. Often, but not always, the harasser is in a position of authority, trust, or influence that provides the opportunity to take advantage of the unequal positions of the parties.

Violation of this rule will result in referral to the Dean of Students and a disciplinary hearing. Suspension and expulsion are possible sanctions.

Sexual Violence/Assault

Sexual violence/assault is a form of prohibited sexual harassment. Sexual violence/assault includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity, because he or she is below the minimum age of consent in the applicable jurisdiction, or because of his or her incapacitation due to the use of drugs and/or alcohol. Other types of conduct may also constitute sexual violence/assault.

Sexual Assault is sexual intercourse or sexual contact with another person without consent. Some examples of sexual violence/assault include:

- Sexual touching with an object or body part, by a man or woman upon a man or woman, without consent.
- Sexual touching with an object or body part, by a man or woman upon a man or woman, committed by force, threat, or intimidation.
- Sexual intercourse (anal, oral, or vaginal) by a man or woman upon a man or woman without consent

- Unwilling sexual penetration (anal, vaginal, or oral) with any object or body part that is committed by force, threat, or intimidation.
- Prostituting another student.
- Non-consensual video or audiotaping of sexual activity.

Definition of Consent

Consent is informed, freely given, and mutually understandable words or actions that indicate a willingness to participate in sexual activity. Effective consent may never be obtained when there is a threat of force or violence or any other form of coercion or intimidation. A current or previous dating or sexual relationship is not sufficient to constitute consent and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent cannot be obtained from a minor, someone who is unable to understand, or someone who cannot communicate a lack of consent. This includes someone who is incapacitated due to drugs, alcohol, or some other condition. Silence or lack of active resistance does not imply consent. Voluntary intoxication is not an excuse for failure to obtain consent. Effective consent may not exist when there is a disparity of power between the parties (e.g., faculty/student, supervisor/employee). Lack of consent is a critical factor in determining whether sexual violence/assault has occurred.

Domestic Violence

Domestic Violence is violence, threats, or intimidation committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse including past or present marriage, domestic partnership, romantic, dating, or sexual relationship, by a former spouse or similarly situated person against a victim who is in a subsequent relationship with a former spouse or similarly situated person, or by any other person against a victim who is protected from that person's acts under the domestic or family violence laws of New Hampshire.

Dating Violence

Dating Violence is violence, threats, or intimidation committed by another person who is or has been in a social relationship of a romantic or intimate nature with the victim, and 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, or c) the frequency of interaction between the persons involved in the relationship.

Stalking

Stalking is purposely engaging in a course of conduct directed at a specific individual that would cause a reasonable individual to fear for his or her safety or the safety of another person, feel seriously alarmed, disturbed, frightened, or suffer emotional distress.

Pregnancy

TMC will not unlawfully discriminate against any student or employee or unlawfully or unreasonably exclude any student from her education program or activity, including any class or extracurricular activity, based on pregnancy, childbirth, lactation, or recovery from these conditions. The Dean and the Office of Student Life will work with the pregnant student or employee to make reasonable accommodations, if necessary.

Reporting Sexual Offenses

Students who are victims of a sexual offense should first get to a place of safety and then obtain the necessary medical treatment. They may either contact the Merrimack Police Department at 911 or a member of the Office of Student Life (Proctors, RAs, Residence Directors, Title IX Coordinators, or Dean of Students) who will assist the student in obtaining medical treatment and understanding the options available to the student.

Dean of Students, Dr. Michael Taylor
(Office) 603-546-0879 · mtaylor@thomasmorecollege.edu

Residence Director, Ms. Josephine Moorman
(Cell) 770-617-5086 · jmoorman@thomasmorecollege.edu

Residence Director, Mr. Jonathan Wright
(Cell) 845-443-3322 · jwright@thomasmorecollege.edu

Title IX Coordinator, Mrs. Tryphena Reidy
(Office) 603-546-0372 · treidy@thomasmorecollege.edu

Deputy Title IX Coordinator, Ms. Alicia Dow
(Cell) 603-477-7673 · adow@thomasmorecollege.edu

III. TMC PROCEDURE AFTER RECEIVING A REPORT OF A SEXUAL OFFENSE

Referral to the Dean of Students

A student who has reported an alleged sexual offense shall be referred to the Dean of Students, who will explain and navigate the available support services. This includes information regarding counseling, educational support, pastoral care, medical treatment, and information about filing a complaint for disciplinary action.

Upon receipt of a report of an alleged sexual offense in which the accused is a current TMC student, the Dean of Students shall issue no-contact orders, as appropriate, to the student alleging a sexual offense (complainant) and the student accused of a sexual offense (respondent).

The Dean of Students shall also provide assistance to the affected students in rearranging class schedules and housing; every effort will be made to accommodate all reasonable requests, to protect the students and the campus community, and to minimize the impact on the students' educational programs.

The Dean of Students may temporarily ban respondents from campus and all TMC property, collegiate events, and activities. If there is sufficient evidence, the Dean of Students may ban accused persons indefinitely from campus and all TMC property, collegiate events, and activities. The Dean of Student may inform the Merrimack Police Department of his decision and, in such cases, will pass on to the Police Department the accused person's identity.

Title IX Investigations

The Title IX Coordinator and Deputy Title IX Coordinator are responsible for oversight of the investigative and adjudicative processes for sexual offense complaints and for conducting investigations when a complaint of sexual harassment has been made to TMC. Ordinarily, this administrative investigation is conducted by the Dean of Students and will include a review of statements obtained from either party, interviews with both parties, interviews with witnesses and review of documentary evidence. TMC may be obligated to conduct an investigation regardless of the complainant's requests.

During the administrative investigation, the Title IX Coordinator, Deputy Title IX Coordinator, and the Dean of Students will periodically update each other and share pertinent information, careful to maintain confidentiality and investigative integrity.

Title IX Coordinator and Deputy Title IX Coordinator

It is the responsibility of the Title IX Coordinator and Deputy Title IX Coordinator to coordinate dissemination of information and education and training programs to: (1) assist members of the TMC community in understanding that sexual misconduct is prohibited by this policy; (2) ensure that investigators are trained to respond to and investigate complaints of sexual misconduct; (3) ensure that employees and students are aware of the procedures for reporting and addressing complaints of sexual misconduct; and (4) to implement the Sexual Misconduct Complaint Resolution Procedures or to designate appropriate persons for implementing the Sexual Misconduct Complaint Resolution Procedures.

Dean's Review

At the conclusion of the investigation, the Dean of Students will submit a report to the Title IX Coordinator and Deputy Title IX Coordinator. The report shall contain all material collected during the investigation, whether by TMC personnel or others, and may contain the Dean of Student's evaluation of the facts revealed during the investigation. The Dean of Students may consult with any other officials he considers appropriate during this review.

As part of this review, the Dean of Students will determine, based on the information contained within the investigative report, whether there is sufficient information available to charge the respondent with an alleged violation of TMC policy. Should the Dean of Students determine that there is sufficient information to charge the respondent, the Dean of Students will refer the case for a disciplinary hearing. Should the Dean of Students determine that there is not sufficient information to charge the respondent, the Dean of Students will document the matter as closed. This determination will generally be made within five business days.

The respondent will be found in violation only if the Disciplinary Board composed of the Dean of Students, a faculty member, and Student Life staff member determines, by a preponderance of the evidence, that the respondent has committed a violation of TMC policy.

The Dean of Students will provide written notification of the determination of the review to the complainant and respondent. The complainant may appeal the determination that there is not enough information to charge the respondent by submitting a letter to the President of the College, outlining all reasons for the appeal. The appeal must be submitted to the President within five business days of receipt of the outcome letter. The President will evaluate the appeal and notify the complainant and respondent in writing of his decision. This determination by the President will generally be made within five business days of when the appeal has been received. That determination is final and may not be further appealed.

In all cases, the Dean will inform the Title IX Coordinator, Deputy Title IX Coordinator, and the President of the determination of the review.

Estimated Timelines

All parties have an interest in the speedy resolution of an alleged sexual offense, and the following timelines are designed to accomplish that. TMC cannot control all factors that might contribute to delays including local law enforcement activity, the completion of criminal forensic testing, or the availability of witnesses. A disciplinary investigation will normally be completed within twenty-one calendar days of receipt of a reported sexual offense.

When an estimated timeline cannot be adhered to, the Dean of Students shall ensure that all parties are notified of the delay and provide an anticipated completion date. The decision of when to conclude an investigation or to refer a case to a hearing board will be case-specific; for example, it is not necessary to wait for the conclusion of a criminal investigation, but TMC officials must decide when there is sufficient information and evidence available that moving forward would be in the interests of justice, neither premature nor unduly delayed, both of which could frustrate achievement of a just result.

Disciplinary Procedures for Sexual Offenses Complaints

The following procedures shall apply in student disciplinary proceedings for complaints of a sexual offense. Formal rules of process, procedure, and technical rules of evidence, such as applied in criminal or civil court, are not used in student disciplinary proceedings. Deviations from prescribed procedures shall not invalidate a decision, unless significant prejudice to an accused student, complainant, or TMC results.

The Dean of Students may decide to forego a hearing if the respondent accepts responsibility in writing, in which case the Dean of Students may proceed to consider the appropriate sanction. The complainant shall be informed and consulted during this process.

1. The complainant and respondent shall receive at least seven calendar days written notification of the specific charges and the date, time, and location of the scheduled proceedings and their rights as outlined in these procedures.
2. The complainant and respondent may request a reasonable extension of time to prepare for the proceedings. Requests for an extension will not be granted for a period to exceed two business days except in unusual circumstances where the party can demonstrate the necessity for a longer delay. All requests for extension of time should be made in writing at least twenty-four hours prior to the scheduled proceedings, except in cases of documented serious illness or emergency.
3. The complainant and respondent shall be afforded reasonable access to review the case file prior to and during the proceedings and may request a copy of a redacted incident report from the Dean of Students. "Case file" means the file containing those materials pursuant to the Family Educational Rights and Privacy Act (FERPA) of 1974. If additional information becomes available and is relevant, it will be discussed and reviewed at the proceedings. The personal notes of TMC staff members and investigators and privileged information of other students are not included in the case file and thus are not accessible.
4. Both parties shall have the opportunity to provide to the Dean of Students additional and relevant information to be considered by the Disciplinary Board. Any such additional information must be submitted in writing at least two business days prior to the proceedings to the Dean of Students. The Dean of Students will ensure that such information, if relevant, is provided to both parties, and may grant delays as the Dean of Students considers appropriate to permit parties to prepare to respond to additional information or documents.
5. During the proceedings, testimony regarding any party's past sexual conduct will ordinarily not be permitted, except in those instances where there was a prior sexual relationship between the parties and the testimony may be relevant to the issue of consent. If the respondent is found responsible for the conduct alleged in the complaint, his or her past TMC disciplinary history, if any, may be considered by the Dean of Students in determining the appropriate sanction.

6. Proceedings will be closed to non-participants and to the public, including friends and TMC personnel without an official interest in the case. The complainant and the respondent may choose to permit parents or guardians to observe the proceedings.
7. Either party will be provided with options for reasonable alternative arrangements if he or she does not want to be present in the same room as the other party during the proceedings.
8. The complainant shall have an opportunity to present, and the respondent shall have the opportunity to respond to, the information related to the alleged violation; both parties may provide the names of witnesses from the TMC community who have relevant and material information pertaining to the incident. These individuals may be invited at the discretion of the Dean of Students to participate in the proceedings but are not required. Character witnesses and character evidence will not be heard. Ordinarily, witnesses who are not members of the TMC community will not be invited to serve as witnesses in the proceedings and expert witnesses will not be invited.
9. During the proceedings, the parties shall have an opportunity to have questions posed to each other and witnesses through the presider of the Board, and to address the information related to the alleged violation; questions from the complainant to the respondent or from the respondent to the complainant should be submitted in writing to the Dean of Students no less than two business days prior to the scheduled proceedings; the parties may also submit questions during the hearing, based on information that arises during the hearing. The presiding officers will examine the questions and ensure relevance and propriety. These questions will be asked by the presiding officer. At no time will either party be permitted directly to ask the other questions. Doing so could result in removal from the proceedings.
10. Both complainant and respondent may be accompanied by one advisor. The role of the advisor shall be limited to support and consultation; the advisor may not speak during any proceedings except privately to the party being advised, nor shall the advisor question or address witnesses. Violation of this expectation will result in the advisor being removed from the proceeding at the discretion of the presiding officer. In consideration of the limited role of an advisor, and in the interest of TMC to expeditiously conclude the matter, a proceeding will normally not be delayed if an advisor is unavailable.
11. The Office of Student Life shall make available a legal advisor for the proceedings. The advisor may be present for the proceedings and the presiding officer, normally the Dean of Students, may recess the proceedings and consult with the legal advisor.
12. A respondent who fails to appear at a scheduled proceedings without good cause (e.g., serious illness), after proper notice of such a proceeding, may be adjudicated in absentia, and forfeits all rights to an appeal unless it is for lack of proper notice, as required herein. In such cases, decisions will be based solely on witness testimony and other information presented during the proceedings.
13. Proceedings outcomes must be supported by a preponderance of evidence. Preponderance of evidence means that a greater weight of evidence has been demonstrated in order to decide in favor of one side over the other, to determine

whether a fact is true, or to establish that an event occurred. A preponderance of the evidence does not necessarily mean the greater amount of evidence but rather the greater quality of evidence, making it more likely than not that the matter in question is true. A respondent may be found in violation of any prohibited conduct (including sections of the *Rules of Collegiate Life or Handbook* for which he or she was not originally charged) when behaviors that were previously unknown are discovered during the course of the student disciplinary proceedings or if it is determined that a different section of the *Rules* more appropriately addresses the conduct in question.

14. The outcome of the proceedings shall be conveyed to the parties in writing by the Dean normally within five business days.

Resources for Medical, Counseling, and Pastoral Care

The preservation of evidence is essential to the prosecution of an alleged sex offense, domestic violence, dating violence, or stalking offense. Following an incident, it is important that students not shower, eat, change clothes, or brush teeth prior to seeking medical attention.

TMC does not currently have on-campus counseling services for victims of sex offenses.

Pastoral care is available through TMC's Chaplains and can be requested through the Dean of Students.

Disclosure of Disciplinary Proceedings to Victims of Violent Crimes

Upon written request, TMC will disclose to the alleged victim of a crime of violence or a non-forcible sex offense, a report on the results of any disciplinary proceedings conducted by TMC against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, TMC will provide the results of the disciplinary hearing to the victim's next of kin, if so requested.

Retaliation Prohibited

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this policy or Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy or Title IX. Intimidation, threats, coercion, or discrimination, including charges against an individual for policy/handbook violations that do not involve sexual discrimination or sexual misconduct, but arise out of the same facts or circumstances as a report or complaint of sexual discrimination, or a report or formal complaint of sexual misconduct, for the purpose of interfering with any right or privilege secured by this policy or Title IX, constitutes retaliation. TMC will keep confidential the identity of any individual who has made a report or complaint of retaliation (as well as discrimination, harassment, or sexual misconduct) pursuant to this policy, except as may be permitted by

the Family Educational Rights and Privacy Act (FERPA) statute or regulations, as required by law, or to carry out the purposes of this policy.

Any retaliation as described above is prohibited and is a separate violation of this policy. An individual who is threatened in any way should immediately report these concerns to the Title IX Coordinator or the Deputy Title IX Coordinator. All complaints, allegations, or reports of retaliation under this policy will be processed by the same procedures set forth in this policy. Individuals who engage in such retaliatory actions are subject to disciplinary sanctions.

Some examples of retaliation include, but are not limited to:

- Suspending or limiting a person's involvement in an activity because of his or her participation in an investigation under this policy.
- Taking adverse academic action against a student following a report of misconduct under this policy.
- Communicating threats to an individual to encourage an individual not to pursue a complaint or to withdraw a complaint under this policy.

Good Faith Reports

TMC encourages the good faith reporting of misconduct under this policy. However, TMC will not allow this policy or the grievance resolution procedures to be abused for improper means. TMC will not tolerate intentional false reporting of incidents or knowingly providing false information with reckless disregard for the truth during an investigation or grievance resolution process under this policy. Such conduct is a violation of this policy which will be addressed in accordance with the applicable student, or employee handbook and subject to disciplinary action, up to and including termination from employment or dismissal from school. Moreover, depending on the circumstances, such conduct may also violate state criminal statutes and civil defamation laws.