

Policy Type: District

Policy Title: Title IX

Who Does This Policy Affect: All Staff and Students at MCCC

Purpose: The purpose of this policy is to address the purpose, reporting methods and training for Title IX.

Monroe County Community College Title IX Policy

- I. Purpose and Scope
- II. Prohibited Conduct
- III. Definitions
- IV. Making a Report
- V. Filing a Formal Complaint
- VI. Mandatory and Discretionary Dismissal
- VII. Outreach and Initial Assessment
- VIII. Resolution Methods
 - Informal Resolution
 - Investigation Procedures
 - Hearing Procedures
- IX. Appeals
- X. Rights, Expectations & Responsibilities
- XI. Resources
- XII. Training Requirements
- XIII. Record Retention

I. Purpose and Scope

Monroe County Community College (MCCC) is committed to fostering a fair and equitable environment for individuals to study, learn and work and a prompt and equitable process for investigation and resolution of complaints covered by Title IX. This Policy applies to students, faculty, staff who are (1) employed by, attending, or affiliated with MCCC; (2) participating in, or attempting to participate in, any MCCC program or activity; and/or (3) visiting MCCC's campus (es) or any property owned or leased by MCCC. This Policy also covers acts of Prohibited Conduct committed by third parties, including visitors, guests, vendors, and contractors who are affiliated with the College, or accessing, or attempting to access, a College program or activity; complaints against such third-parties may be handled in accordance with existing contracts and agreements, and third parties may not be eligible for the procedural protections provided within this Policy.

The procedures in this policy are in accordance with the Department of Education's Title IX Regulations, published May 19, 2020. They apply only to complaints of sexual harassment, sexual assault, dating violence, domestic violence and stalking on the basis of sex as defined by this Policy (hereinafter referred to collectively as "Prohibited Conduct").

The College shall have the discretion to refer complaints of misconduct not covered by this Policy to any other appropriate office for handling under any other applicable College policy or code.

II. Prohibited Conduct

Prohibited Conduct as used throughout this policy is defined to include any of the following acts when they occur in the United States and, either on campus, in a building controlled by an officially recognized College organization, and/or in a College program or activity.

- 1. Dating Violence:** Violence committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- 2. Domestic Violence:** Violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Michigan,

or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Michigan. Allegations of child abuse under Michigan law shall also be referred to Children's Protective Services or local law enforcement.

3. **Sexual Harassment:** Conduct on the basis of sex committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved which is one of the following:
 - A. When an MCCC employee conditions the provision of an educational benefit or service on an individual's participation in unwelcome sexual conduct (quid pro quo); and/or
 - B. Unwelcome conduct¹ determined by a reasonable person to be so severe, and pervasive, and objectively offensive, that it effectively denies a person equal access to an educational program or activity of MCCC.

The College recognizes community members' right to the free expression of ideas including those that may be controversial or unpopular. Nothing in this definition is intended to conflict with an individual's First Amendment rights. As a result, any conduct covered by those protections does not meet this definition of sexual harassment.

4. **Sexual Assault, Includes any of the Following:**

- A. **Sexual Offenses, Forcible:** Any sexual act directed against another person without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent:
 - i. 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 Complainant.
 - ii. Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensual), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - iii. The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually) or not forcibly or against the

¹ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

- iv. The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

B. Sex Offenses, Non-forcible, Includes Any of the Following:

- i. **Incest:** Non-forcible sexual intercourse between persons who are related to each other, within the degrees wherein marriage is prohibited by Michigan Law.
- ii. **Statutory Rape:** Non-forcible sexual intercourse, with a person who is under the statutory age of consent of 16 years of age.

- 5. **Sex-Based Stalking:** Engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for the person's safety, or the safety of others, or suffer substantial emotional distress.

For the purposes of this definition, "course of conduct" means two or more acts, including, but not limited to:

- i. Acts in which the Respondent 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.
- ii. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- iii. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

III. Definitions

- 1. **Actual Knowledge:** Notice of Prohibited Conduct allegations to the MCCC's Title IX Coordinator or any MCCC official with authority to institute corrective measures on behalf of MCCC. Such officials are those in the following positions: President, Vice President of Administration, Vice President of Instruction, Vice President of Enrollment Management and Student Success, and Director of Human Resources. Any one of these individuals who receives a report of a potential violation in this Policy is required to

inform the Title IX Coordinator about the information received. The mere ability or obligation to report Prohibited Conduct or to inform a student about how to report Prohibited Conduct, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of MCCC. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only MCCC official with actual knowledge is the Respondent.

- 2. Advisor:** All persons who are a Complainant or a Respondent are permitted to bring an Advisor of their own choosing to any meeting or interview to provide support. The Advisor may be any person, including a family member or an attorney. The Advisor may accompany the student party to any and all portions of the grievance process. The Advisor may not participate directly in, represent, or interfere with the investigation. Although reasonable attempts will be made to schedule proceedings consistent with an Advisor's availability, the process will not be delayed to schedule the proceedings at the convenience of the Advisor. The Title IX Coordinator has the discretion to remove the Advisor from investigation and hearing proceedings if the Advisor interferes with the proceedings.

During a hearing, a Complainant and Respondent shall have a Hearing Advisor. The Hearing Advisor may be the same person who serves as the Advisor during the investigation process. This person may be of the Complainant or Respondents own choosing. If a Complainant or Respondent does not have a Hearing Advisor who can be present for the hearing, MCCC will provide a Hearing Advisor for the purpose of asking questions of the other party, and witnesses. Neither Complainant nor Respondent shall be permitted to ask questions of the other party, or witnesses.

- 3. Complainant:** An individual who is the victim of, or alleged to be the victim of, conduct that may constitute Prohibited Conduct as defined in this Policy.
- 4. Confidentiality and Privacy:** Confidentiality and Privacy have distinct meanings under this Policy.

“Confidentiality” generally means that information shared with a licensed confidential resource cannot be revealed to any other person or office, unless written permission is granted by the individual to share their information,

“Privacy” generally means that information related to a report of Prohibited Conduct will only be shared with a limited circle of individuals who “need to know” in order to assist in the assessment, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the College's FERPA Policy. The privacy of an individual's medical and related records may be protected by the Health Insurance Portability and Accountability Act ("HIPAA"), excepting health records protected by FERPA. Access to an employee's personnel records may be restricted by applicable state and federal law.

While there are certain limitations on privacy, the College generally will not release the names of the Complainant or Respondent to the general public without express written consent or absent another exception consistent with the law. The release of names will be guided by applicable law, including the Family Educational Rights and Privacy Act (FERPA) and the Clery Act.

In addition, no information shall be released from a proceeding to enforce this Policy except as required or permitted by law and College Policy.

5. **Consent:** A free and willing agreement to engage in a sexual act, provided without force or coercion, between individuals who are of sufficient age and are not mentally incapable, mentally disabled, mentally incapacitated or physically helpless, or incapacitated by drugs or alcohol. Consent is a clear and unambiguous agreement, expressed outwardly through mutually understandable words or actions, to engage in a particular activity. Consent must be voluntarily given and cannot be obtained through coercion or force, and the person initiating a specific sexual activity is responsible for obtaining consent for that activity. Consent is not to be inferred from silence, or a lack of resistance. Consent is not to be inferred from an existing or previous dating or sexual relationship. Consent to engage in one sexual activity at one time is not consent to engage in a different sexual activity or to engage in the same sexual activity on a later occasion. Consent can be withdrawn by any party at any point. Once consent is withdrawn, the sexual activity must cease immediately. For purposes of this Policy, in evaluating whether consent was freely sought and given, the issue is whether the Respondent knew, or reasonably should have known, that the activity in question was not consensual or that the Complainant was unable to consent due to incapacitation.
6. **Days:** Any reference to days within this Policy shall be counted as College business days unless otherwise specified.
7. **Formal Complaint:** The term "Formal Complaint" has a very specific definition within this Policy, and whether one is filed does not depend on the label applied, but instead on whether certain specific elements are met. A Formal Complaint is the act that initiates an investigation. A Formal Complaint must be filed and signed by a Complainant or signed by a Title IX Coordinator, alleging conduct which would constitute a violation of this Policy and requesting that MCCC investigate the allegations(s). At the time of filing a Formal Complaint, a Complainant must be participating in, or attempting to participate in, an education program or activity of

MCCC. A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail (email), by using the contact information listed on the Title IX website (<https://www.monroeccc.edu>), or as described in this Policy. Individuals who would like more information about filing a Formal Complaint are invited to contact a Title IX Coordinator for additional information.

In the event that the Title IX Coordinator signs the Formal Complaint, this act does not make the Title IX Coordinator the “Complainant” for purposes of this Policy.

- 8. Hearing Advisor:** During a hearing, a Complainant and Respondent shall have a Hearing Advisor. The Hearing Advisor may be the same person who served as the Advisor throughout the investigation. This person may be of the Complainant’s or Respondent’s own choosing. If a Complainant or Respondent does not have a Hearing Advisor who can be present for the hearing, MCCC will provide a Hearing Advisor for the purpose of asking questions of the other party, and witnesses. Other than asking questions at the hearing of the other party or of witnesses, the Hearing Advisor may not participate directly in, represent, impede or interfere with the hearing proceedings.
- 9. Incapacitation:** A state where an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act (e.g., to understand the who, what, when, where, why, or how of the sexual interaction) and/or is physically helpless. An individual asleep or unconscious is considered to be incapacitated and unable to consent to sexual activity. An individual will also be considered incapacitated if the person cannot understand the nature of the activity or communicate due to a mental or physical condition. Incapacitation may result from the use of alcohol, drugs, or other medication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation.

The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual’s: (A) decision-making ability; (B) awareness of consequences; (C) ability to make informed judgments; or (D) capacity to appreciate the nature and the quality of the act.

It shall not be a valid excuse that the Respondent believed that the Complainant consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances: (a) the Complainant was asleep or unconscious; (b) the Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant

could not understand the fact, nature, or extent of the sexual activity; (c) the Complainant was unable to communicate due to a mental or physical condition.

Whether the Respondent reasonably should have known that the Reporting Party was incapacitated will be evaluated using an objective reasonable person standard. The fact that the Respondent was actually unaware of the Complainant's incapacity is irrelevant to this analysis, particularly where the Respondent's failure to appreciate the Complainant's incapacitation resulted from the Respondent's failure to take reasonable steps to determine the Complainant's incapacitation or where the Respondent's own incapacitation (from alcohol or drugs) caused the Respondent to misjudge the Complainant's incapacity.

It is the responsibility of the individual initiating the sexual activity to be aware of the intoxication level of the other party before engaging in sexual activity. In general, sexual activity while under the influence of alcohol or other drugs poses a risk to all parties. If there is any doubt as to the level or extent of the other individual's intoxication, it is safest to forgo or cease any sexual contact or activity.

10. Party: A Complainant or Respondent in a case.

11. Preponderance of Evidence: Means "more likely than not." It is the standard of evidence used during the investigation to determine whether the alleged conduct occurred and/or this Policy was violated.

12. Protected Activity: Exercising any right or privilege under this policy. Examples of protected activities include reporting (internally or externally) a complaint of Prohibited Conduct in good faith, assisting others in making such a report, participating in a grievance process, acting in good faith to oppose conduct that constitutes a violation of this Policy, honestly participating as an investigator, witness, decision maker, or otherwise assisting in, an investigation or proceeding related to an alleged violation of this Policy.

13. Respondent: An individual who is reported to have engaged in Prohibited Conduct.

14. Standard of Evidence: The decision regarding a Respondent's responsibility will be determined by a preponderance of the evidence, meaning "more likely than not."

15. Supportive Measures: Non-disciplinary, non-punitive, free of charge individualized services offered to a Complainant and/or the Respondent by MCCC as appropriate and reasonably available. Such measures are designed to restore or preserve equal access to MCCC's education program or activity without unreasonably burdening the other party. Supportive measures are also available whether or not an formal complaint has been filed. Supportive measures may include, but are not limited to: academic support, class

and work schedule changes, mutual ban on contact (no-contact directive), increased security, or other measures as determined on a case-by-case basis.

Note: Any Supportive Measures put in place will be kept confidential, except to extent that doing so impairs the ability of the institution to provide the Supportive Measures.

16. Third-Party Reporter: A person other than the Complainant who reports an incident or allegation of Prohibited Conduct.

17. Title IX Coordinator: The College official(s) charged with ensuring the College's overall compliance with Title IX and related College Policy and procedures.

IV. Making a Report

MCCC encourages individuals to report incidents involving Prohibited Conduct and other potential violations of this policy. MCCC does not limit the timeframe for reporting an incident regardless of when the incident occurred. However, the College encourages individuals to report as soon as practical, as memories may fade and evidence may be lost over time.

Individuals may also notify one of the Title IX Coordinators if they believe someone else may have experienced conduct that would be a violation of this Policy.

Reports of potential violations of this Policy may be made to one of the [Title IX Coordinators](#), Linda Torbet at LTorbet@monroeccc.edu or Dr. Scott Behrens at SBehrens@monroeccc.edu. Reports to the Title IX Coordinator of potential violations of this policy will be kept private to the extent possible for the College to respond to the report, but reports made to the Title IX Coordinator are not confidential.

Upon being notified of a report the Title IX Coordinator shall reach out to the Complainant to schedule an Intake Interview and will also provide Complainant information regarding resources, rights, Supportive Measures, and reporting options, and will explain that Supportive Measures are available without filing a Formal Complaint.

Anonymous Reports: Any individual may make an anonymous report concerning an act of Prohibited Conduct. Depending on the extent of information available about the incident or the individuals involved, however, the College's ability to respond to an anonymous report may be limited. The Title IX Coordinator will receive the anonymous report and will determine any appropriate steps, including individual or community remedies as appropriate, and in compliance with all Clery Act obligations.

Please note that a Formal Complaint cannot be filed anonymously, and is only considered to have been filed only when the complaint contains the Complainant's physical or digital

signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

Responsibility to Report: The College encourages all members of the MCCC community to make the College a safe and supportive environment for everyone including calling 911 or campus police in an emergency situation or to report a crime or other incident that poses a risk of harm to the MCCC community. However, MCCC employees have a particular duty to report safety or security concerns and crimes or Policy violations, including potential violations of this Policy. **Any** College employee who is not a confidential resource under this Policy and who witnesses, is advised of or learns about an alleged violation of this Policy **must promptly notify** the Title IX Coordinator of the incident by email, or telephone. The employee must report to MCCC's Title IX Coordinator all relevant details about the alleged misconduct known to the employee or shared with them.

Amnesty: A Complainant or Third Party who reports a violation of this policy, or any participant in an investigation or hearing under this policy will not be subject to the College's policy concerning alcohol or drug use for actions that may have occurred at or near the time of Prohibited Conduct, unless the action threatens the health or safety of another.

V. Filing a Formal Complaint

In order to proceed to a Resolution Process, a Formal Complaint must be filed and signed by either Complainant or the Title IX Coordinator.

An individual may choose to file a Formal Complaint. A Formal Complaint has a very specific definition under this policy, and differs from solely making a report to the Title IX Coordinator. Unless it is dismissed as set forth below, filing a Formal Complaint will result in written notification to the Respondent and the commencement of the Resolution Process.

At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in a College program or activity. A Formal Complaint may not be filed anonymously. Anyone who wishes to discuss their options with the Title IX Coordinator prior to filing a Formal Complaint is encouraged to do so.

A Formal Complaint may be made by:

- a) requesting a form by email from a Title IX Coordinator;
- b) by picking up a form from the Title IX Office and returning it (by US Mail, Email, or in person); or
- c) by emailing the Title IX Coordinator.

Reports to the Title IX Coordinator of potential violations of this policy will be kept private to the extent possible for the College to respond to the report, but reports made to the Title IX Coordinator are not confidential.

Upon being notified of a potential violation of this Policy, the Title IX Coordinator shall reach out to the Complainant to schedule an Intake Interview and will also provide information regarding resources, rights and reporting options.

A Formal Complaint must include:

- A. The Complainant's digital or physical signature, or an indication that the Complainant is the person filing the Formal Complaint
- B. An allegation of [Prohibited Conduct](#) as defined under this Policy. This may include:
 - i. Where the incident(s) occurred
 - ii. What incident(s) occurred
 - iii. When the incident(s) occurred
- C. Identity of Respondent, if known
- D. A request for an [investigation](#)

Formal Complaints may be made to the Title IX Coordinator by US Mail, email, or in person:

Title IX Coordinator: Linda Torbet, Director of Human Resources
Address: 1555 South Raisinville Rd, Monroe, MI 48161
Phone: (734) 384-4245
Email: ltorbet@monroeccc.edu

OR

Title IX Coordinator: Dr. Scott Behrens, Vice President of Enrollment Management and Student Success
Address: 1555 South Raisinville Rd, Monroe, MI 48161
Phone: (734) 384-4224
Email: sbehrens@monroeccc.edu

If a complaint is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to confirm a Complainant's intent to file a Formal Complaint. Further, if the Formal Complaint does not have sufficient information to determine whether or not the conduct as alleged will fall under this Policy, the Title IX Coordinator will contact the Complainant to schedule an Intake Interview.

Upon receipt of a Formal Complaint, the Title IX Coordinator will reach out to the Complainant to conduct an Intake Interview and to discuss and implement Supportive Measures. In the event that the Complainant declines to participate in an Intake Interview, and if the Formal Title

IX Complaint contains an allegation meeting all of the jurisdictional elements of this Policy, and the Formal Complaint is signed or includes an electronic submission from the Complainant, and requests an investigation, the Title IX Coordinator will, within 2 days, put the Respondent and Complainant on notice of the allegation and commence the investigation process.

VI. MANDATORY AND DISCRETIONARY DISMISSAL

The College has the discretion to dismiss a complaint and in some cases an obligation to dismiss a complaint as follows:

Mandatory Dismissal

At any time prior to the commencement of a hearing, any case proceeding under this Policy will be dismissed if it is determined that the conduct at issue does not meet the definitional or jurisdictional requirements of this Policy. If the alleged conduct would, if true, support a finding that another MCCC Policy or Code has been violated, MCCC may, in its sole authority, transfer the case for further handling under the appropriate Policy or Code. MCCC may use evidence already gathered during the Title IX process for the further handling of the complaint. Upon dismissal, both parties shall be notified in writing of the decision and the rationale for the decision. The decision to dismiss is subject to appeal. Both parties will be notified in writing of any determination made following the appeal.

Discretionary Dismissal

At any time during an investigation or hearing, any case when: a) Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations within the Formal Complaint; b) the Respondent is no longer enrolled or employed at the College; or c) circumstances prevent the College from gathering evidence sufficient to reach a determination. If the alleged conduct would, if true, support a finding that another MCCC Policy or Code has been violated, MCCC may, in its sole authority, transfer the case for further handling under the appropriate Policy or Code. MCCC may use evidence already gathered during the Title IX process for the further handling of the complaint. Upon dismissal, both parties shall be notified in writing of the decision and the rationale for the decision. The decision to dismiss is subject to appeal. Both parties will be notified in writing of any determination made following the appeal.

Consolidation of Cases: In the event that the allegations under this Policy also involve allegations of a violation of a separate policy, the Title IX Coordinator shall have sole discretion to consolidate those other allegations within one investigation and/or hearing. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this Policy.

VII. Outreach and Initial Assessment

Intake Interview

Upon receipt of information alleging a potential violation of this Policy, the Title IX Coordinator shall reach out to the Complainant to schedule an intake or informational interview and provide a copy of this policy and the following information:

- Availability of Supportive Measures with or without filing a Formal Complaint;
- How to file a Formal Complaint;
- Right to notify law enforcement and the right not to notify law enforcement;
- Importance of preserving evidence;
- Resources for counseling, health care, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other available services; and,
- Right to an Advisor of choice.

The Title IX Coordinator will discuss the Complainant's rights and options, and will also assess for, and provide, appropriate Supportive Measures, which are available with, or without, the filing of a Formal Complaint. If a Formal Complaint has not already been filed, the Title IX Coordinator will explain to the Complainant the process for filing a Formal Complaint.

A Complainant may choose to receive Supportive Measures only and not proceed with the filing of a Formal Complaint, or any other resolution process. A Complainant may also request an informal resolution or an investigation and hearing. If a Complainant chooses to pursue an investigation and hearing, a Formal Complaint is required.

For those Complainants who wish to proceed with a resolution process, the Title IX Coordinator will also assess the facts as presented to determine whether the information provided suggests a potential violation of this Policy.

In the event the allegation involves a sexual assault, dating or domestic violence, or stalking, within Clery geography, the Title IX Coordinator will also notify the Clery Coordinator of the allegations. Complainants will also be provided with information about their right to file with law enforcement, their right to decline to do so, and, when applicable, information about seeking a personal protection order from the local courts.

If the complaint does not meet the required definitions of this Policy, then the Title IX Coordinator will not initiate either the Resolution Process.

The Title IX Coordinator shall have the discretion to sign a Formal Complaint and initiate an investigation when a Complainant's allegations involve violence, use of weapons, serial predation, or similar factors. When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator does not become the "Complainant" for purposes of this Policy.

Emergency Removal Provisions

If at any time MCCC determines that the conduct, as alleged, poses a risk of physical harm to one or more members of the MCCC community or to MCCC's educational environment, MCCC may instruct that a student Respondent be suspended, on an interim basis, from specific programs or activities. Any such assessment will be made on a case-by-case basis, based on an individualized safety and risk analysis. If MCCC determines that an immediate physical threat to the health or safety of students or others justifies removal from campus, then a Respondent may be suspended on an interim basis. The decision to do so will be provided to Respondent in writing.

Further, MCCC shall have the authority to place any employee Respondent on an administrative leave of absence pending the outcome of an investigation and hearing.

The decision to place any Respondent on an interim suspension or administrative leave shall not be considered as evidence that any determination has been made regarding potential responsibility for violating this Policy.

Opportunity to Challenge Decision to Suspend or Remove: A student Respondent shall have an opportunity to challenge the decision of suspension or removal. To challenge suspension or removal, the Respondent should contact the campus Vice President of Enrollment Management and Student Success within 5 days of the interim suspension, who will explain the College's process for challenging the emergency removal.

VIII. Resolution Methods

A Formal Complaint is required in order to initiate either of the two methods to resolve a potential violation of this policy: 1) informal resolution; 2) investigation and hearing.

Informal Resolution

The Complainant may request, in writing, to proceed with an Informal Resolution. Participation in the Informal Resolution process is voluntary for both Complainant and Respondent and both parties and the Title IX Coordinator must agree to the use of Informal Resolution to resolve the complaint. If an Informal Resolution option is preferred, the Title IX Coordinator will assess whether the complaint is suitable for Informal Resolution and will then take steps to determine if the Respondent is also willing to engage in Informal Resolution. Both parties must agree, in writing, to an Informal Resolution.

Allegations that an employee has engaged in Prohibited Conduct toward a student shall not be handled through the Informal Resolution process, and instead be resolved only through the Investigation and Hearing process.

When the Complainant requests an Informal Resolution, the Title IX Coordinator will provide the Complainant and Respondent written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The requirements of the Informal Resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations;
- Any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared;
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the formal investigation and adjudication processes, there is a determination of responsibility;
- An explanation that each party may be accompanied by an Advisor and a support person) of their choice, who may be a parent, friend, or attorney;
- The date and time of the initial meeting with the Title IX Coordinator, with a minimum of 2 days' notice;
- Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant.

If either party does not voluntarily agree in writing to pursue an Informal Resolution, or if the Complainant, Respondent, or Title IX Coordinator, at any time, determines that Informal Resolution is no longer appropriate, the Title IX Coordinator will promptly inform the Complainant and Respondent in writing that the complaint will proceed through the Investigation and Hearing Process.

Once the final terms of an Informal Resolution have been agreed upon by both parties, in writing, the matter shall be considered closed, and no further action shall be taken.

The Informal Resolution process is generally expected to be completed within thirty (30) and may be extended for good cause by the Title IX Coordinator. Both parties will be notified, in writing, of any extension and the reason for the extension.

Records of any Informal Resolution will be maintained and can be shared with other offices as appropriate.

Investigation Process

MCCC expects that all individuals who participate in the investigation process to do so truthfully and that all who have a responsibility for carrying out one or more aspects of the investigation and hearing process do so fairly and without prejudice or bias.

Prohibition on False Evidence Provided During Title IX Process

Each party and every witness is expected to provide truthful information to the investigator, Hearing Officer, and the appeals officer.

Notice of Investigation, and Investigation Process

Within a reasonable period of time from the filing of a Formal Complaint and prior to the start of an investigation, the Respondent and Complainant shall be provided, in writing, with a Notice of Investigation. Such notice shall include:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The identity of the Complainant;
- The date and location (if known) of the conduct that is alleged to have occurred;
- A copy of this Policy, which contains the process that will be followed, including an explanation that each party shall have the right to inspect and review all evidence prior to the completion of the investigation;
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the process below, there is a determination of responsibility;
- An explanation that each party may be accompanied by an Advisor of their choice, who may be a parent, friend, attorney, or union representative;
- The date and time of the initial interview with the investigator, with a minimum of five (5) days' notice;
- Information regarding amnesty granted during this process;
- The name and contact information for the assigned investigator;
- Information regarding Supportive Measures.

Should additional allegations be brought forward, a revised Notice of Investigation shall be provided to both parties, in writing.

Conflict of Interest or Bias

After a Formal Notice of Investigation is issued to Complainant and Respondent, each party may object to the Title IX Coordinator or designated investigator on the grounds of a demonstrated bias or actual conflict of interest. Both parties will have three (3) business days from the date of the Notice of Investigation to object to the selection of the investigator or the Title IX Coordinator. Objections to the Title IX Coordinator shall be made, in writing, to the Vice President of Enrollment Management and Student Success. Objections to the appointment of the investigator shall be made, in writing, to the Title IX Coordinator. If the objection is substantiated as to either the Title IX Coordinator or the Investigator, that individual shall be replaced.

Timeline

The College strives to complete the investigation process, up to evidence review, within 40 days, which may be extended for good cause by the Title IX Coordinator. Both parties shall be notified, in writing, of any extension granted, the reason for the extension and the new anticipated date of conclusion of the investigation.

Interviews

The investigator will interview all parties and relevant witnesses and gather relevant documentary evidence provided by the parties and any identified witnesses. Interviews may be conducted in person, or via video conference. The investigator will record the interview and the transcript of the interview will be made available to the person interviewed and also included with evidence review (see below).

The investigator shall prepare an Interview Summary of each interview. The investigator will share the Interview Summary with the interviewee. The interviewee will have three (3) days to correct or comment on any statements made in the Interview Summary. The deadline may be extended for good cause, upon request to the investigator. If the interviewee has corrections or comments to the Interview Summary, the interviewee may submit a written response within three (3) days reflecting any additions or changes which the interviewee believes are necessary to ensure the accuracy of the interviewee's statement. If no response is received from the interviewee by the deadline, their Interview Summary will be presumed to be accurate. In all instances where the investigator includes the Interview Summary as an exhibit to a report, the investigator will either adjust the Interview Summary as may be appropriate, or include any response provided with the Investigation Report.

Each party shall be provided with an opportunity to offer relevant witnesses and evidence. The investigator will consider all relevant evidence.

Information or evidence that is not provided to the investigator will not be allowed during the hearing, unless it can be clearly demonstrated that such information was not reasonably known to or available to the parties at the time of the investigation.

Evidence Review

At the conclusion of all interviews and fact gathering, and when the evidence has been gathered, the investigator will provide each party, and their Advisor, the opportunity to review all of the evidence gathered that is directly related to the allegation(s). This shall include both inculpatory and exculpatory evidence. Given the sensitive nature of the information provided, the information will be provided in a secure manner (e.g., by providing digital copies of the materials through a protected, "read-only" web portal). Neither the Complainant nor the Respondent (nor their Advisors) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this Policy may be subject to discipline. Any Advisor who fails

to abide by this Policy may be subject to discipline and/or may be excluded from further participation in the process.

Each party may respond to the evidence gathered. Each party shall have ten (10) days in which to respond to the evidence. Each may provide a response in writing to the investigator. The investigator will incorporate any response provided by the parties into the Summary of Evidence Report. Along with their response to the evidence, each party may also submit a written request for additional investigation, such as a requests for a follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the investigator to pose to witnesses or to the other party. This response may include written, relevant questions that a party would like the investigator to ask of any party or witness. If any of the questions posed will be excluded as not relevant, or not likely to lead to relevant information, the investigator shall explain to the party who proposed the questions any decision to exclude a question as not relevant.

Upon receipt of each party's response to the evidence reviewed, the investigator will determine if any additional investigation is needed.

In addition, either party may offer new witnesses or other new evidence. The investigator will take into account the responses provided, shall pose questions to parties or witnesses as appropriate, and interview new relevant witnesses, and accept new, relevant, evidence.

If new relevant evidence is provided by either party, or gathered by the investigator, the newly-gathered evidence (including answers to clarifying questions) will be made available for review by each party. Each party shall have ten (10) days in which to respond to the new evidence. Each may provide a response in writing to the investigator. The investigator will incorporate any written response provided by the parties into the Summary of Evidence Report.

Any evidence to be considered by the Hearing Officer must be provided to the investigator. Information that was not provided to the investigator will not be allowed during the hearing itself, unless it can be clearly demonstrated that such information was not reasonably known to, or available to, the parties at the time of the investigation. Should new evidence be presented at the hearing, the Hearing Officer shall have the authority to either exclude the evidence, or to send the matter back for further, limited investigation.

Exclusion of Questions Regarding Complainant's Past Sexual Behavior, or Predisposition

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted, unless such questions and evidence about the Complainant's prior sexual behavior are offered for one of two reasons: (a) to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or (b) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Investigation Report

The investigator shall then prepare a written report summarizing all of the relevant evidence gathered and all investigative steps taken to date. For those cases in which there are allegations of other College policies, the investigator shall also make preliminary factual findings if requested to do so by the Title IX Coordinator. Each party, as well as their Advisor, shall be provided with a copy of the written report and shall have 10 days to provide a response. Upon receipt of any response(s), the investigator shall then complete the Investigation Report, which shall include as an attachment all relevant evidence gathered during the investigation, as well as all interview notes and interview summaries, showing the original (as sent to each interviewee for review) and the revised version, after corrections or additions by each interviewee.

Conclusion of Investigation, Notice of Hearing

The Title IX Coordinator will review the final Investigation Report, with attachments. The Title IX Coordinator may require that the investigator conduct additional investigation. Once the Investigation Report is final, it shall be provided through a protected, read-only, server, together with all attachments, to each party and to their Advisor.

At the same time, each party shall be provided with a Notice of Hearing, which shall include information regarding the date of the hearing, the identity of the Hearing Officer, and any deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the Hearing Officer to ensure relevance. The hearing shall be scheduled no less than 10 business days from the date of the Notice of Hearing.

Within three (3) days of receipt of the Notice of Hearing, either party may object to the Hearing Officer on the basis of a demonstrated bias or actual conflict of interest. Any objection is to be in writing and sent to Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the Hearing Officer and appoint another Hearing Officer.

Hearing Procedures

Hearing Advisor

Each party is entitled to one Advisor at the hearing which shall be referred to as the Hearing Advisor. The role of the Hearing Advisor is to ask questions of the other party and of witnesses, but not to advocate for, or otherwise speak on behalf of, the advisee during the hearing. No party shall be permitted to ask questions of the other party, or of a witness. A Hearing Advisor of MCCCC's choosing shall be provided for any party who does not have a Hearing Advisor.

There will be a pre-hearing meeting with each party at which time, should the Complainant or Respondent not have a Hearing Advisor, one shall be assigned.

Hearing

Hearings may be conducted in person or via videoconferencing. If by videoconference, prior to the hearing, the Hearing Officer shall have received instruction regarding the operation of any audio-visual equipment for the hearing. The Hearing Officer shall also provide the participants instructions on how to participate in the video-conference hearing. No Complainant or Respondent or witness will be compelled to participate in the hearing. However, the Title IX Coordinator may choose to continue with the hearing in the absence of the Complainant, Respondent or any witness. The Hearing Officer may not take into consideration in either the hearing or in their final determination the statements made during the investigation of any individual who does not participate in the hearing and submit to questioning.

Each hearing shall be recorded by the Hearing Officer and this recording will be considered the only official recording of the hearing. No other individual is permitted to record while the hearing is taking place. The recording is the property of MCCC but shall be available for listening by contacting Title IX Coordinator.

The Complainant, Respondent, and the Hearing Officer all have the right to call witnesses. Witnesses must have information relevant to the incident. No party will be permitted to call as a witness anyone who was not interviewed by the investigator as part of MCCC's investigation. Each party shall submit to the Hearing Officer the names of witnesses they would like to call no less than five (5) days in advance.

Three days prior to the hearing, each party shall submit to the Hearing Officer a preliminary list of questions they wish to pose to the other party, or to a witness. If the Hearing Officer determines that any are not relevant, the Hearing Officer shall explain the reason for the exclusion of the question at the hearing. Each party, through their Advisor, shall also be permitted to ask additional questions at the hearing. In the event that a party does not appear for the Hearing, the Advisor for that party shall appear and question the other party, and witnesses.

The Hearing Officer shall have the authority to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing. Any such limitation shall be communicated to the parties no later than three (3) days before the hearing.

The Hearing Officer shall have the authority to maintain order and decorum at the hearing. The Hearing Officer also has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, and will not permit such questions. Any party or witness who is disruptive may, in the discretion of the Hearing Officer, be removed and directed to continue their participation via video conferencing. Any Advisor who is disruptive may be

removed, and the Hearing Officer will appoint another Advisor for the remainder of the hearing.

Following the hearing, the Hearing Officer will then prepare a report. To the extent credibility determination needs to be made, shall not be based on a person's status as Complainant, Respondent, witness.

The Hearing Officer's report will include:

- The allegations;
- Description of all procedural steps;
- Findings of fact;
- Conclusion of application of facts to the Policy; and
- Rationale for each allegation.

The Hearing Officer's report shall be provided to the Title IX Coordinator. If there is no finding of responsibility, the Title IX Coordinator shall communicate the findings, along with a copy of the Hearing Officer's report, to the parties, together with [procedures for appeal](#).

If there is a finding of responsibility, the Title IX Coordinator shall contact the appropriate sanctioning officer who will determine the sanction and notify the Title IX Coordinator of the sanctioning determination. The Title IX Coordinator will then provide each party with the Hearing Officer's report, the determination of the appropriate sanction, will inform the Complainant of any appropriate remedies, and will inform both parties of the [procedure for appeals](#).

Sanctions and Remedies

Upon conclusion of the adjudicating process, when there is a finding of responsibility, the Complainant will be offered such remedies designed to restore or preserve equal access to the institution's education program or activity. Some examples are tutoring, counseling. The Title IX Coordinator is responsible for implementation of remedies.

Persons who violate one or more of MCCC's policies will be disciplined. The particular form of sanction will depend on the nature of the offense, as well as any prior disciplinary history. Such sanction will be imposed pursuant to and in accordance with any and all applicable MCCC rules, policies, and procedures. A person against whom such sanction is imposed will have a right to contest the imposition of a sanction.

Any one or more of the sanctions listed here may be imposed on a Respondent who is found responsible for a violation of MCCC's policies. Sanctions not listed here may be imposed in consultation with the Title IX Coordinator. Sanctions are assessed in response to the specific violation(s) and any prior discipline of the Respondent.

Possible sanctions include, but are not limited to:

Warning: Verbal Notice, with documentation in the student or personnel file, that continuation or repetition of Prohibited Conduct may be cause for additional disciplinary action.

Censure: A written reprimand for violating MCCC Policy. This conduct status specifies a period of time during which the Respondent's good standing with MCCC may be in jeopardy. The Respondent is officially warned that continuation or repetition of Prohibited Conduct may be cause for additional conduct action including probation, suspension, expulsion or termination from MCCC.

Behavioral Contract: Formal, written notice that the student Respondent will be expected to adhere to College expectations regarding their conduct as may set forth in a behavior contract. Any violation of that contract may result in further disciplinary action.

Demotion or Change in Employment Status: Temporary or permanent changes or demotions in employment position, status or title which may or may not include an adjustment in salary.

Restrictions on Access or Duties: Conditions which specifically dictate and limit the Respondent's presence on campus, restrict employment duties, and/or participation in MCCC sponsored or related activities. The restrictions will be clearly defined and may include, but are not limited to, presence in certain buildings or locations on campus.

Restitution: Repayment to MCCC or to an affected party for damages (amount to be determined by the MCCC) resulting from a violation of this Policy. To enforce this sanction, MCCC reserves the right to withhold its transcripts and degrees or to deny a student participation in graduation ceremonies and privileged events.

Probation: Formal, written notice that the employee is in violation of MCCC's policies and an expectation that the employee exhibit good behavior for a defined period of time. Any violation during the probationary period may result in further disciplinary action.

Termination of Employment: Permanent separation of the employee from MCCC.

Expulsion: Permanent separation from MCCC effective immediately. Any refund of tuition or fees as result of the expulsion shall be in accordance with applicable policies. No academic credit may be earned for that semester.

Withholding Degree: MCCC may withhold awarding a degree otherwise earned until the completion of the process set forth in this Policy, including the completion of all sanctions imposed, if any.

Other: Other sanctions may be imposed instead of, or in addition to, those specified here. Service, education, or research projects may also be assigned.

Multiple Disciplinary Actions: More than one of the actions listed above may be imposed for any single violation.

IX. Appeals

Appeals may be filed by either party. Appeals shall be sent to the Title IX Coordinator, who will then send the appeal to the appeals officer. When an appeal is filed, the other party shall be notified, in writing, within one business day, and shall then have five (5) days to respond to the appeal. Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal. Each party shall be allowed to meet with the appeals officer.

The appeals officer shall not have any actual conflict of interest or bias. Within three (3) days of the assigned Appeals Officer, either party may object to the appeals officer on the basis of an actual bias or conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the appeals officer and appoint another appeals officer.

Union Grievance Process

If a sanction is imposed upon a union member, and following an appeal under this Policy, the Respondent has a right to challenge that sanction pursuant to the grievance and arbitration provisions of a collective bargaining agreement; the arbitrator shall not have the right to change the underlying findings of the Hearing Officer or the appeals officer.

Appeals May be Filed only on the Following Three Grounds:

1. **Procedural Error:** A procedural error MCCCC that significantly impacted the outcome of the investigation or hearing. A description of the error and its impact on the outcome of the case must be included in the written appeal; or,
2. **New Evidence:** New evidence or information has arisen that was not available or known to the party during the investigation or hearing, and that could significantly impact the findings. Information that was known to the Appellant during the investigation or hearing but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the investigation findings must be included in the written appeal; or,
3. **Actual Conflict of Interest or Demonstrated Bias:** The Title IX Coordinator, investigator, or decision-maker had an actual conflict of interest or demonstrated bias for or against Complainants or Respondents generally, or

the individual Complainant or Respondent, that affected the outcome of the matter.

The written appeals decision shall be sent simultaneously to both parties which describes the result of the appeal and the rationale for the result.

X. Rights, Expectations & Responsibilities

Individuals making a complaint to the Title IX Coordinator (“Complainant”) and individuals responding to a complaint (“Respondent”) each have rights throughout the complaint resolution and adjudication process, and may expect a fair, neutral process that will follow this policy.

Complainant and Respondent Rights

- Be treated with respect by all College officials throughout this process;
- Be informed of the available support resources or measures available;
- Be free of any form of retaliation and free to report such retaliation for disciplinary action;
- Obtain a mutual no contact directive with the other party upon request;
- Be accompanied by one Advisor throughout the process, including at any interviews or hearing;
- An adequate, reliable, impartial and prompt investigation of the allegations conducted within a reasonable period of time after a formal complaint is filed;
- Receive written notice of the date, time and location of any interview scheduled with the investigator;
- Be informed of the status of the investigation, to the extent possible;
- Review all evidence which is directly related to the allegations prior to the conclusion of the investigation;
- Meet with the investigator and present information on their own behalf, identify witnesses or other third parties who might have relevant information and identify or provide relevant documents or other information that may be helpful to the investigation;
- Have past unrelated behavior excluded from the investigation process;
- Question the selection of the investigator or Hearing Officer on the basis of an actual conflict of interest or demonstrated bias;
- Have a hearing Advisor of the College’s choosing provided, at no charge, for purposes of asking questions of the other party or witnesses during the hearing proceeding;
- Be notified of the hearing outcome and any sanctions applied, if applicable;
- Initiate and participate in an appeal process;
- Waive any of the rights contained herein.

Respecting Privacy

MCCC is committed to protecting the privacy of all individuals involved in the investigation and resolution of reports under this Policy. With respect to any report under this Policy, the College will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. All College employees who are involved in the College's Title IX response receive specific instruction about respecting and safeguarding private information.

Retaliation

Retaliation is prohibited under this policy. Retaliation is defined as any materially adverse action against a person who reports, complains about, or who otherwise participates in good faith in any manner related to this policy. Materially adverse action includes conduct that threatens, coerces, harasses or in any other way seeks to discourage participation in or activity under this policy. Retaliation does not include good-faith actions lawfully pursued in response to a report of Prohibited Conduct. Any person who believes they have experienced retaliation under this policy should contact the Title IX Coordinator who forward any complaint of retaliation to the appropriate office for handling.

No Conflict of Interest or Bias

Any individual carrying out this Policy shall be free from any actual conflict of interest or demonstrated bias that would impact the handling of this matter. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator is to immediately notify the Vice President of Enrollment Management and Student Success, who will take the role of Acting Title IX Coordinator for purposes of carrying out the handling and finalization of the matter at issue. Should any investigator have a conflict of interest, the investigator is to notify the Title IX Coordinator upon discovery of the conflict.

Presumption of Non-Responsibility

The decision to proceed with an investigation is not in and of itself a determination that the Respondent has engaged in the conduct as alleged. Any Respondent is presumed not responsible for the conduct that is the subject of the investigation, unless and until a decision of responsibility has been made upon the completion of the adjudication process.

Requests for Delays, and Extensions of Time

The Title IX Coordinator may extend any deadlines within this Policy, for good cause. The Complainant and Respondent will be notified in writing of any extension, the reasons for it, and projected new timelines.

XI. RESOURCES

An individual who seeks confidential assistance may do so by speaking with a licensed professional counselor at Counseling Services Information shared with a counselor at Counseling Services is not considered a report to the College.

COMMUNITY RESOURCES:

River Raisin Counseling [734-931-6151](tel:734-931-6151)
Family Counseling & Shelter Service [734-241-0180](tel:734-241-0180)
SOAP Project [614-216-1619](tel:614-216-1619)
Michigan State Police [734-242-3500](tel:734-242-3500)
Child Advocacy Network (CAN) [734-604-3384](tel:734-604-3384)

XII. Training for Investigators, Hearing Officers, Hearing Panel, Appeals Officers, Title IX Coordinator

All individuals involved in the Title IX response, investigation, hearing and appeals process receive training in accordance with 34 C.F.R. §106.45(b)(10)(i)(D). This training may be viewed at the College's Title IX website.

XIII. Record Retention

The Office of the Vice President of Enrollment Management and Student Success will maintain all records relating to complaints and resolutions under this Policy for a period of seven (7) years.

Related Documents:

Policy 1.65 Policy Statement on Illegal Discrimination and Sexual Harassment

Approved by the Board of Trustees: 9/28/20