

TITLE IX SEXUAL HARASSMENT POLICY

Policy Section 1, Part IX

I. Policy Statement

Montcalm Community College, “MCC”, is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation on the basis of sex. This policy was created to reflect that commitment and to ensure compliance with 20 U.S.C. 1681, “Title IX”, including the revisions of 34 CFR part 106. MCC is committed to providing policies and procedures that offer a prompt, fair, and impartial response and process for those involved in an allegation of sexual harassment. MCC values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

II. Reason for Policy

This policy was created to comply with 20 U.S.C. 1681, “Title IX”, including the revisions of 34 CFR part 106.

III. Entities Affected by This Policy

All MCC employees, students, members of the Board of Trustees and visitors to the campus

IV. Who Should Read This Policy

All MCC employees, students, members of the Board of Trustees and visitors to the campus

V. Contacts

Vice President of Administration Services, Equal Opportunity Compliance Officer & Title IX Coordinator
Dean of Student & Enrollment Services
Director of Human Resources

VI. Definitions

- A. Advisor: A person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- B. Complainant: An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment or retaliation for engaging in a protected activity under this Policy.

- C. Confidential Resource: An employee who is not a Responsible Employee required to report Sexual Harassment (regardless of Clery Act Campus Security Authority status).
- D. Consent: Permission to engage in sexual activity; the Title IX policy will utilize the definition of Consent set forth in MCC's Sexual Misconduct Policy, 6.4.
- E. Education Program and Activity: Education program and activities of MCC are defined for purposes of this policy as the locations, events, or circumstances where MCC exercises substantial control over both the Respondent and the context in which the sexual harassment occurs.
- F. Final Determination: A conclusion by the preponderance of the evidence that the alleged conduct occurred and whether it did or did not violate policy.
- G. Finding: A conclusion by the preponderance of the evidence that the conduct did or did not occur as alleged.
- H. Formal Complaint: A document filed/signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or retaliation for engaging in a protected activity against a Respondent and requesting that MCC investigate the allegation.
- I. Formal Grievance Process: A method of formal resolution designated by MCC to address conduct that falls within the policies included below, and which complies with the requirements of 34 CFR Part 106.45.
- J. Hearing Decision-maker: Those who have decision-making and sanctioning authority (in cases with student Respondents) within MCC's Formal Grievance process. For students, the Hearing Decision-maker is a panel; for employees, the Hearing Decision-maker is an external individual.
- K. Investigator: The person or persons charged by MCC with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- L. Responsible Employee: A MCC employee who is obligated by policy to share knowledge, notice, and/or reports of Sexual Harassment and retaliation with the Title IX Coordinator.
- M. Notice: When an employee, student, or third party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of Sexual Harassment and/or retaliatory conduct.
- N. Official with Authority (OWA): An employee explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of MCC.

- O. Parties: Both the Complainant(s) and Respondent(s), collectively.
- P. Remedies: Post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to MCC's educational program.
- Q. Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity.
- R. Resolution: The result of an informal or Formal Grievance Process.
- S. Sanction: A consequence imposed by MCC on a Respondent who is found to have violated this policy.
- T. Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following:
 - a. An employee of MCC conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct. This is referred to as "quid pro quo" sexual harassment.
 - b. Unwelcome conduct, determined by a reasonable person to be so severe, pervasive, and objectively offensive, that it effectively denies a person equal access to MCC's education program or activity.
 - c. Sexual assault, as defined in 20 U.S.C. 1092 (f)(6)(A)(v), which defines "sexual assault" as an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. That is further defined as:
 - i. Sex 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.
 - 1. Forcible Rape:
 - a. Penetration, no matter how slight,
 - b. of the vagina or anus with any body part or object, or
 - c. oral penetration by a sex organ of another person,
 - d. without the consent of the Complainant.
 - 2. Forcible Sodomy:
 - a. Oral or anal sexual intercourse with another person
 - b. forcibly,
 - c. and/or against that person's will (non-consensually), or

- d. 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.
 - 3. Sexual Assault with an Object:
 - a. The use of an object or instrument to penetrate, however slightly,
 - b. the genital or anal opening of the body of another person,
 - c. forcibly,
 - d. and/or against that person's will (non-consensually)
 - e. 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.
 - 4. Forcible Fondling:
 - a. The touching of the private body parts of another person (buttocks, groin, breasts)
 - b. for the purpose of sexual gratification,
 - c. forcibly
 - d. and/or against that person's will (non-consensually)
 - e. 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.
- ii. Sex Offenses, Non-forcible:
 - 1. Incest:
 - a. Non-forcible sexual intercourse
 - b. between persons who are related to each other
 - c. within the degrees wherein marriage is prohibited by Michigan law.
 - 2. Statutory Rape:
 - a. Non-forcible sexual intercourse
 - b. with a person who is under the statutory age of consent of Michigan.
- d. Dating Violence, defined in 34 U.S.C. 12291(a)(10) as:
 - i. Violence on the basis of sex
 - ii. committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - 1. 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.

2. For the purposes of this definition—
 - a. Dating violence includes, but is not limited to emotional, psychological, sexual or physical abuse or the threat of such abuse.
 - b. Dating violence does not include acts covered under the definition of domestic violence.
- e. Domestic Violence, defined in 34 U.S.C. 12291(a)(8) as:
 - i. Violence on the basis of sex
 - ii. committed by a current or former spouse or intimate partner of the Complainant,
 - iii. by a person with whom the Complainant shares a child in common, or
 - iv. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
 - v. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Michigan, or
 - vi. 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.
 - vii. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.
- f. Stalking, defined in 34 U.S.C. 12291(a)(30) as:
 - i. engaging in a course of conduct
 - ii. on the basis of sex
 - iii. directed at a specific person
 - iv. that would cause a reasonable person to fear for the person's safety, or the safety of others; or suffer substantial emotional distress.
 - v. For the purposes of this definition:
 1. Course of conduct means two or more acts, including, but not limited to, 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.
 2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
 3. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling

- U. Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Parties to restore or preserve access to MCC's education program or activity, including measures designed to protect the safety of all parties or the educational environment, and/or deter Sexual Harassment and/or retaliation.

VII. Procedures

- A. Scope of Policy: The core purpose of this policy is the prohibition of sexual harassment as defined by Title IX. Sometimes sexual harassment involves exclusion from activities, such as admission, athletics, or employment. Other times, that harassment can encompass sexual harassment, sexual assault, stalking, dating violence or domestic violence. When an alleged violation of this Title IX policy is reported, the allegations are subject to resolution under this process, where appropriate, as determined by the Title IX Coordinator, and as detailed below.

When the Respondent is a member of the MCC community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the MCC community. This community includes, but is not limited to, students (as defined by the Student Code of Conduct), student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers and invitees. The procedures described in this Policy may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this Policy.

- B. Title IX Coordinator: The Title IX Coordinator is the official designated by MCC to ensure compliance with Title IX and MCC's Title IX program. The Title IX Coordinator has the primary responsibility for coordinating MCC's efforts related to the intake, investigation, resolution and implementation of supportive measures to stop, remediate, and prevent sexual harassment prohibited under this policy. Connie Stewart's info here*****
- C. Independence and Conflict of Interest: The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team who are involved in any particular case are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator(s), and Hearing Decision-maker(s) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent. The

Parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another member of the Title IX team will be assigned to fill the role, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Director of Human Resources. To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Director of Human Resources at riki.jensen@montcalm.edu or 989-328-1220. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

D. Duty to Report: MCC requires that all employees are considered Responsible Employees and will report to the Title IX Coordinator if they become aware of an incident that may violate this Title IX policy. This designation is separate from an Official with Authority as defined in this policy. Determining who is an Official with Authority is a legal determination of who is explicitly vested with responsibility to implement corrective measures on behalf of MCC. Regardless of an employee's designation as an Official with Authority, all MCC employees are required per this policy report any actions which may violate the Title IX.

E. Filing a Complaint:

a. Complaints and notices of alleged policy violations may be made in any of the following ways:

i. File a complaint with, or give verbal notice to, the Title IX Coordinator using the contact information in Section X.B. of this policy. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to:

Connie Stewart, Vice President of Administrative Services
2800 College Drive
Sidney, MI 48885
connies@montcalm.edu
989-328-1249

ii. Report online, using the reporting form posted at <https://montcalm.edu/about/complaints>

b. Anonymous reports: Anonymous reports can be made through any of the means above. Individuals who are considering making an anonymous report should be aware of the following:

i. The information contained in anonymous reports may give rise to a need to investigate. Without a known Complainant, MCC may be limited in its ability to obtain follow-up information and appropriately respond to the complaint.

- ii. MCC tries to provide supportive measures to all Complainants, which is impossible with an anonymous report.
 - iii. The act of reporting carries no obligation to initiate a Formal Complaint. MCC seeks to respect Complainants' requests regarding complaints, as described further in this Title IX Policy, Section X.M.
- c. A Formal Complaint is a document filed and/or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that MCC investigate the allegation(s). A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in Section X.B. A Formal Complaint will contain a Complainant's or the Title IX Coordinator's digital or physical signature, or otherwise indicates who is filing the Formal Complaint. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to verify their intent to file a Formal Complaint and ensure that it is filed correctly. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or party.

F. Supportive Measures:

- a. Process: MCC will offer and implement appropriate and reasonable supportive measures to the Parties upon notice of alleged sexual harassment and/or retaliation. The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the Title IX Coordinator will inform the Complainant, in writing, that they may file a formal complaint with MCC either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.
- b. Privacy: MCC will maintain the privacy of the supportive measures, provided that privacy does not impair MCC's ability to provide the supportive measures or respond appropriately to the concern. MCC will act to ensure as minimal an academic impact on the parties as possible. MCC will implement measures in a way that does not unreasonably burden the other party.
- c. Options: Supportive measures may include, but are not limited to:
 - i. Referral to confidential resources, including counseling and other mental health services, and the Employee Assistance Program for employees, and community-based service providers
 - ii. Class schedule modifications, withdrawals, or leaves of absence

- iii. Increased security and monitoring of certain areas of the campus
- iv. Visa and immigration assistance
- v. Student financial aid counseling
- vi. Education to the community or community subgroup(s)
- vii. Altering work arrangements for employees or student-employees
- viii. Safety planning
- ix. Providing campus safety escorts
- x. Providing transportation accommodations
- xi. Implementing contact limitations (no contact orders) between the parties
- xii. Academic support, extensions of deadlines, or other course/program-related adjustments
- xiii. Issuing Timely Warnings, per the Clery Act.
- xiv. Any other actions deemed appropriate by the Title IX Coordinator

G. Emergency Removal: MCC can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any individual has arisen from the allegations of Sexual Harassment and justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with MCC's Behavioral Intervention Team (BIT). The Respondent will have notice and an opportunity to challenge the decision immediately following the removal. MCC has the authority and discretion to place an employee on administrative leave during the pendency of an investigation even where the requirements for an emergency removal are not met.

H. Promptness: All allegations are acted upon promptly by MCC after receiving notice or a Formal Complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but MCC seeks to avoid all undue delays within its control. Any time the general timeframes for resolution outlined in the Title IX policy will be delayed, MCC will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

I. Privacy: Every effort is made to preserve the privacy of reports. MCC will not share the identity of any individual who has made a report or complaint of

sexual harassment or retaliation pursuant to this policy, including the identity of the Parties, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under MCC's policies.

- J. Jurisdiction: MCC's Title IX policy applies when:
 - a. The alleged conduct occurred in the Education Program and Activities of MCC, defined for purposes of this policy as the locations, events, or circumstances where MCC exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs. This could include an off-campus building owned or controlled by a student organization officially recognized by MCC.
 - b. MCC has control over the Respondent at the time of the complaint.
 - c. The alleged conduct occurs against a Complainant who is in the United States.
 - d. If a Formal Complaint is filed, at the time of filing the Formal Complaint, a Complainant is participating in or attempting to participate in MCC's education program or activity.

- K. Retaliation: It is prohibited for MCC or any member of the MCC community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has engaged in a protected activity. Protected activity under this policy includes reporting an incident that may implicate this policy, filing a Formal Complaint, participating or refusing to participate in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. MCC will take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Charges against an individual for code of conduct violations that do not involve Sexual Harassment but arise out of the same facts or circumstances as a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. The exercise of rights protected under the First Amendment does not constitute retaliation.

- L. Materially false statements: Making a materially false statement as part of a Title IX investigation is a violation of MCC's Code of Conduct. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

- M. Complainant's Expressed Desire Not to Proceed: If a Complainant does not wish for their name to be shared, does not wish for an investigation to take

place, or does not want a Formal Complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether MCC proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate risk assessment. The Title IX Coordinator's decision will be based on results of the risk assessment that show a compelling risk to health and/or safety that requires MCC to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. MCC may be compelled to act on alleged misconduct regardless of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and MCC's ability to pursue a Formal Grievance Process fairly and effectively. When MCC proceeds with the Formal Grievance Process, the Complainant or their Advisor may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy regardless of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

MCC's ability to remedy and respond to notice may be limited if the Complainant does not want to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing MCC's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow MCC to honor that request, MCC will offer informal resolution options as discussed in Section X.O.4 of this Policy, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by MCC, and to have the incidents investigated and properly resolved through these procedures.

- N. Amnesty for Complainants and Witnesses: The MCC community encourages Complainants and witnesses to report misconduct and crimes. Sometimes, Complainants or witnesses are hesitant to report to MCC officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit

drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the MCC community that Complainants choose to report misconduct to MCC officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process. To encourage reporting and participation in the process, MCC maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

O. Title IX Process:

1. Notice and Complaint: Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of this Title IX Policy pursuant to Section X.E, MCC will initiate a prompt initial assessment to determine the appropriate next steps.
 - a. The initial assessment will involve:
 - A. Title IX Coordinator determines if Complainant wishes to make a Formal Complaint, and assists them in doing so if desired.
 - B. If there is no Formal Complaint filed by Complainant, Title IX Coordinator determines if there is an institutional risk to health or safety, as discussed in Section X.M., sufficient for the Title IX Coordinator to sign the Formal Complaint.
 - C. Title IX Coordinator offers Supportive Measures to the Complainant and notifies them of their right to have an Advisor as part of the process.
 - b. The initial assessment will conclude in at least one of the following responses:
 - A. Supportive measures as described in Section X.F., if the Complainant does not want to proceed formally, and/or
 - B. Proceeding with an informal resolution, and/or
 - C. Proceeding with a Formal Grievance Process, to include an investigation and a hearing, which will determine whether or not MCC's Title IX Policy has been violated. If so, MCC will promptly implement effective remedies to address the potential recurrence of the harassment or its effects.
 1. If the Complainant wishes to proceed with a Formal Grievance Process, the Title IX Coordinator will determine if the alleged Sexual Harassment falls within the scope of the Title IX Policy.

2. If it does not fall within the scope of the Title IX Policy, the Title IX Coordinator will “dismiss” the Title IX complaint, and offer other policy options to the Complainant, including the Sexual Misconduct policy.
3. If the actions alleged fall within the scope of the Title IX Policy, the Title IX Coordinator will initiate (or designate an investigator to initiate) an investigation of whether the alleged sexual harassment violates MCC’s Title IX Policy.

2. Dismissal of Complaint

- a. **Mandatory:** Dismissal of the Title IX Complaint is mandatory if at any time during the investigation or hearing, it is determined that:
 - A. The conduct alleged in the formal complaint would not constitute Sexual Harassment as defined in the Policy hereinabove, even if proved; and/or
 - B. The conduct did not occur in an educational program or activity controlled by MCC, and/or MCC does not have control of the Respondent; and/or
 - C. The conduct did not occur against a person in the United States; and/or
 - D. At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity.
- b. **Discretionary:** Dismissal of the Title IX Complaint is discretionary if, at any time during the investigation or hearing:
 - A. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein, though the Complainant may later request to reinstate or refile the complaint; or
 - B. Specific circumstances prevent MCC from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- c. **Procedure for Dismissal:** Upon any dismissal, the Title IX Coordinator will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the Parties. This dismissal decision is appealable by any party.
- d. **Appeal of Dismissal:** MCC’s decision to dismiss or not to dismiss is appealable by either Party under the procedures for appeal below.

3. Advisors: The Parties may each have an Advisor of their choice with them for all meetings and interviews within the Formal Grievance process, if they so choose.

- a. **Witnesses as Advisors:** Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

- b. Who can serve as Advisor: The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of MCC.
- c. MCC Advisor: The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from MCC, the Advisor will be trained by MCC and will be familiar with MCC's processes. Advisors may request to meet with the Title IX Coordinator in advance of portions of the Formal Grievance process to allow Advisors to clarify and understand their role, as well as the relevant Policies and Procedures. One party's choice to select an attorney to serve as their Advisor does not obligate MCC to provide an attorney for the other Party.
- d. The Right NOT to have an Advisor: Parties have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing. At a hearing, Parties must have an Advisor to facilitate cross-examination. If a Party does not have an Advisor for a hearing, the Title IX Coordinator or designee will appoint a trained Advisor for the limited purpose of conducting any cross-examination.
- e. Role of the Advisor: The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors are not to interrupt the meeting and are primarily present for support and consultation with the Party. If unable to comply with expectations, Advisors may be asked to leave. Advisors may not speak on behalf of the Party they advise except during the cross-examination portion of the hearing proceeding.
- f. Expectations for Advisors: All Advisors are subject to MCC policies and procedures, and are expected to advise their advisees without disrupting proceedings. Advisors are not present in a hearing to present statements or arguments or to facilitate direct examination. Advisees may consult with their Advisors as requested, and may do so privately as needed.
- g. Information Sharing with Advisors: Parties may share any information directly with their Advisors, to facilitate the Advisor's participation in the process. Upon request, the Title IX Coordinator can provide a consent form to authorize MCC to share information directly with the Advisor. Advisors are expected to maintain the privacy of any documentation, exhibits or other information shared with them.
- h. Unionized employees: For parties who are entitled to union representation, MCC will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all meetings and interviews as part of the Formal Grievance Process. Union representatives will be held to the expectations of Advisors and the scope of their role will be consistent with the appropriate Collective Bargaining Agreement. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors.

4. Informal Resolutions: MCC does not require, as a condition of any right or privilege, waiver of the right to an investigation or participation in the Formal Grievance Process. After a Formal Complaint is filed, and before making a determination regarding responsibility for a violation of this Policy, MCC may facilitate an informal resolution process that does not involve a full investigation and adjudication, if MCC:
 - a. Provides to the parties a written notice disclosing:
 - i. the allegations,
 - ii. the requirements of the informal resolution process,
 - iii. the circumstances under which the parties are precluded from resuming a formal complaint arising out of the same allegations, provided that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Formal Grievance Process.
 - b. Obtains the Parties' voluntary, written consent to the informal resolution process, and
 - c. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

5. Formal Grievance Process Participants: The Formal Grievance Process is carried out by the Title IX Coordinator, Investigator(s), including the Title IX Coordinator, Hearing Decision-makers, Appeal Decision-makers, and Advisors.
 - a. Training of Formal Grievance Process participants: The Title IX Coordinator, Hearing Decision-makers, Appeal Decision-makers, and investigators receive annual training on the following topics, as appropriate for their role.
 - i. The scope of MCC's Title IX Policy
 - ii. How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
 - iii. Implicit bias
 - iv. Disparate treatment and impact
 - v. Reporting, confidentiality, and privacy requirements
 - vi. Applicable laws, regulations, and federal regulatory guidance
 - vii. How to implement appropriate and situation-specific remedies
 - viii. How to investigate in a thorough, reliable, and impartial manner
 - ix. How to uphold fairness, equity, and due process
 - x. How to weigh evidence
 - xi. How to conduct questioning
 - xii. How to assess credibility
 - xiii. Impartiality and objectivity
 - xiv. How to render findings and generate clear, concise, evidence-based rationales
 - xv. The definitions of all offenses
 - xvi. How to apply definitions used by MCC with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy

- xvii. How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
 - xviii. How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
 - xix. Any technology to be used at a live hearing
 - xx. Issues of relevance of questions and evidence
 - xxi. Issues of relevance to create an investigation report that fairly summarizes relevant evidence
 - xxii. How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
6. Notice of Investigation and Allegations: The Title IX Coordinator will provide written notice of the investigation and allegations (NOIA) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice if possible of when the NOIA will be delivered to the Respondent.
- a. The Notice of Investigation and Allegations will include:
 - i. A meaningful summary of all of the allegations,
 - ii. The identity of the involved parties (if known),
 - iii. The precise misconduct being alleged,
 - iv. The date and location of the alleged incident(s) (if known),
 - v. The specific policies implicated,
 - vi. A description of the applicable procedures,
 - vii. A statement of the potential sanctions/responsive actions that could result,
 - viii. A statement that MCC presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
 - ix. A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
 - x. A statement about MCC's policy on retaliation,
 - xi. Information about the privacy of the process,
 - xii. Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
 - xiii. A statement informing the parties that the Title IX policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
 - xiv. Details on how the party may request disability accommodations during the Formal Grievance Process,
 - xv. A link or information about relevant community or college resources, including mental health resources,
 - xvi. The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
 - xvii. An instruction to preserve any evidence that is directly related to the allegations.

- b. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.
 - c. The Notice of the Investigation and Allegations will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official MCC records, or emailed to the Parties' MCC-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.
7. Assigning Investigators. Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints an investigator, who may be the Title IX Coordinator, to perform the investigation. That investigator will reach out to the Parties and begin the investigation.
 8. Presumption and Standard of Proof: MCC operates with the presumption that the Respondent is not responsible for the alleged Sexual Harassment. This presumption exists unless and until the Respondent is determined to be responsible for a policy violation by a preponderance of the evidence. The preponderance of the evidence standard means whether it is more likely than not that the Respondent violated the Policy as alleged.
 9. Investigation Procedures: All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available relevant evidence. All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record. An investigation will typically consist of the following steps:
 - a. Determine the identity and contact information of the Complainant.
 - b. Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated.
 - c. Ensure that a prompt initial assessment is conducted to determine if the allegations indicate a potential policy violation.
 - d. Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and anticipated order of interviews for all witnesses and the parties.
 - e. Notify all Parties of their right to have an Advisor of their choosing for all meetings attended by that Party.
 - f. Meet with the Complainant to finalize their interview/statement, if necessary.
 - g. Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations.
 - h. Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the

relevant evidence/testimony from their respective interviews and meetings.

- i. Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible.
- j. When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.
- k. Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- l. Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- m. Complete the investigation promptly and without unreasonable deviation from the intended timeline.
- n. Provide regular status updates to the parties throughout the investigation.
- o. Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used in the investigation report.
- p. Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence.
- q. Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported Sexual Harassment, including evidence upon which MCC does not intend to rely in reaching a determination. Provide a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The Parties may elect to waive the full ten days.
- r. The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses.
- s. The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report.
- t. The Investigator(s) should document all rationales for any changes made after the review and comment period. The Investigator(s) shares the report with the Title IX Coordinator, if other than the investigator, and/or legal counsel for their review and feedback.
- u. The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.

10. Title IX Hearing Scheduling: If the complaint is not resolved through

Informal Resolution, the Title IX Coordinator should schedule a hearing, which shall proceed as follows:

- a. The hearing shall be scheduled not less than ten (10) business days from the date the final investigation report is transmitted to the Parties and the Decision-maker, unless all Parties and the Decision-maker agree to an expedited timeline.
- b. The Title IX Coordinator will select an appropriate panel of three (3) Hearing Decision-makers if the Respondent is a student. One of the 3 Hearing Decision-makers will serve as the Chair. If the Respondent is an employee, the Title IX Coordinator will select an external individual to serve as the Hearing Decision-maker. None of the Hearing Decision-makers may be Advisors, Investigators, or the Title IX Coordinator. A Hearing Facilitator will also be present to guide the process and ensure procedural requirements are met.
- c. The hearing will begin at a time arranged by the Hearing Decision-maker and the Title IX Coordinator.
- d. The Title IX Coordinator or the Decision-maker (or the Chair of the Hearing Decision-maker panel, if a student Respondent) will send notice of the hearing to the Parties not less than ten (10) business days before the hearing is scheduled to be held. Once mailed, emailed, and/or received in person, notice will be presumptively delivered. The notice of hearing will contain:
 - i. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
 - ii. The time, date, and location of the hearing.
 - iii. Any technology that will be used to facilitate the hearing.
 - iv. Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and Parties to see and hear a party or witness answering questions. Such a request must be raised if possible with the Title IX Coordinator at least five (5) business days prior to the hearing.
 - v. A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
 - vi. Information on how the hearing will be recorded and on access to the recording for the Parties after the hearing.
 - vii. A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s). For compelling reasons, the Decision-maker may reschedule the hearing.
 - viii. Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any cross-examination

questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the Title IX Coordinator will appoint one. Each party must have an Advisor present for the purpose of cross-examination.

- ix. A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.
- x. An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least five (5) business days prior to the hearing if possible.

12. Title IX Hearing Proceedings:

- a. Evidentiary Considerations: Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered.
 - i. The hearing does not consider:
 - (a) incidents not directly related to the possible violation, unless they evidence a pattern;
 - (b) the character of the parties; or
 - (c) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or 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.
 - ii. Relevance Considerations: All questions are subject to a relevance determination by the Decision-Maker; for students, this will be facilitated by the chair of the Hearing Decision-maker panel. The Advisor will present the proposed question, the proceeding will pause to allow the Decision-maker to consider it. The Decision-maker will determine whether the question will be permitted, disallowed, or rephrased. The Decision-maker may explore arguments regarding relevance with the Advisors, if the Decision-maker so chooses. The Decision-maker will then state their decision on the question for the record and advise the party/witness to whom the question was directed accordingly. The Decision-maker will explain any decision to exclude a question as not relevant, or request to reframe it for relevance.

The Decision-maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Decision-maker has final say on all questions and determinations of relevance, subject to any appeal; the Decision-maker may consult with legal counsel on any questions of admissibility. The Decision-maker may ask advisors to frame why

a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Decision-maker has ruled on a question.

- b. Procedures: At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of Sexual Harassment and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in connection with the Sexual Harassment and/or retaliation, even though they may not have occurred under this policy. The Hearing Decision-maker will answer all questions of procedure.
- c. Introduction of Investigation Report at Hearing: Upon request by the Decision-maker, the Investigator(s) will present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) may be present during the entire hearing process, but not during deliberations. Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Decision-maker will direct that it be disregarded.
- d. Testimony at Hearing: Once the Investigator(s) present their report and are questioned, the Parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair and set forth in the Hearing Procedures. The Parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors, which is the cross-examination.
- e. Refusal to submit to cross-examination at hearing: For purposes of considering alleged violations of this Policy, if a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend, or they attend but refuse to participate in cross-examination, then the Decision-maker(s) may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-maker(s) must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered. If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from

admission. The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

- f. **Deliberation:** The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. For student Respondents where a panel is used, a simple majority vote of the panel of Decision-makers is required to determine the finding. A hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.
- g. **Decision:** After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence: whether it is more likely than not that the Respondent violated the Policy as alleged. The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, and credibility assessments.
- h. **Sanctioning decision:** After conclusion of the hearing portion of the proceeding, if there is a finding that the alleged conduct occurred and a final determination that the Title IX policy was violated, the Hearing Decision-maker will proceed to make a sanctioning decision, in cases with student Respondents. For employee Respondents, the case will be referred to Human Resources. In those employee cases, HR, in consultation with supervisors, Deans and other appropriate parties will determine an appropriate sanction. Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. The parties may each submit a written impact statement prior to the hearing for the consideration at the sanction stage of the process when a determination of responsibility is reached.
- i. **Sanction Considerations:** Appropriate considerations in determining sanction include:
 - a) The nature, severity of, and circumstances surrounding the violation(s) and the impact on the Parties;
 - b) The Respondent's disciplinary history;
 - c) Previous allegations or allegations involving similar conduct;
 - d) The need for sanctions/responsive actions to bring an end to the Sexual Harassment;
 - e) The need for sanctions/responsive actions to prevent the future recurrence of the Sexual Harassment; and
 - f) The need to remedy the effects of the Sexual Harassment and/or retaliation on the Complainant and the community.

- i. Notice of Outcome: Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors, as requested, simultaneously.
 - a) Delivery of Notice: Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official MCC records, or emailed to the parties' MCC-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.
 - b) Contents of Notice: The Notice of Outcome will identify the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by MCC from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held. The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent MCC is permitted to share such information under law; any sanctions issued which MCC is permitted to share according to law; and any remedies provided to the Complainant designed to ensure access to MCC's educational or employment program or activity, to the extent MCC is permitted to share such information under law. The Notice will also include available appeal options.

13. Sanctions:

- a. For student Respondents: Sanctions for students can include, but are not limited to:
 - i. a verbal or written warning;
 - ii. probation;
 - iii. establishment of mandatory behavior conditions;
 - iv. recommendations for counseling;
 - v. permanent removal from a course or academic program;
 - vi. loss of access to college computers and/or network;
 - vii. specific project designed to assist the student in better understanding the overall impact of the behavior;
 - viii. restitution of damages/stolen property;
 - ix. suspension without pay from his or her on campus job;

- x. prohibit participation in extracurricular activities or interscholastic or leadership positions;
 - xi. community service;
 - xii. withholding degree;
 - xiii. suspension; and/or
 - xiv. expulsion.
- b. For employee Respondents: Sanctions for employees can include, but are not limited to:
- i. a verbal or written warning;
 - ii. a Performance Improvement Plan;
 - iii. recommendations for counseling;
 - iv. additional training or educational requirements;
 - v. demotion;
 - vi. removal of responsibilities or leadership roles,
 - vii. suspension; and/or
 - viii. termination.

14. Withdrawal or Resignation While Charges are Pending:

- a. Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent withdraw permanently from MCC, the Formal Grievance Process per the Title IX Policy ends, as MCC no longer has disciplinary jurisdiction over the withdrawn student. A hold will be placed on the student's ability to return, pending resolution of the process. MCC will continue to address and remedy any systemic issues, ongoing effects of the alleged Sexual Harassment, etc.
- b. Should an employee Respondent resign with unresolved allegations pending, the Formal Grievance process per the Title IX Policy ends, as MCC no longer has disciplinary jurisdiction over the resigned employee. The employee may no longer be eligible for rehire, absent appropriate resolution of the Formal Grievance Process. MCC will continue to address and remedy any systemic issues, ongoing effects of the alleged Sexual Harassment, etc.

15. Appeals:

- a. Request for Appeal: Any party may request an appeal, which must be submitted in writing to the Appeal Decision-maker within 5 days of the delivery of the Notice of Outcome. The Appeal Decision-maker is the Dean of Student & Enrollment Services for students and an external Decision-maker for employees (separate from the Hearing Decision-maker). For student respondents, the Request for Appeal will be reviewed initially by the Dean of Student Enrollment Services, who will consult with the Title IX Coordinator and General Counsel as necessary, and determine if the request meets the grounds for appeal and is timely filed. For employee respondents, the Request for Appeal will be submitted to the Title IX Coordinator, who will consult with General Counsel

and determine if the request meets the grounds for appeal and is timely filed. If so the Title IX Coordinator will then forward it to an external Appeal Decision-maker. Employee appeal processes will comply with collective bargaining agreements. Utilizing the appeals process does not prohibit a unionized employee from using the grievance process at the conclusion of the appeal.

- b. Grounds for Appeal: One or more of the following grounds must be identified and explained in the Request for Appeal:
 - i. Procedural irregularity that affected the outcome of the matter;
 - ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
 - iii. The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.
- c. Response to Appeal: If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-maker will notify the Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the Hearing Decision-maker(s). The Parties will be given five (5) business days to submit a written response to the appeal. All responses will be forward to the other Parties for review and comment. The non-appealing party may also choose to raise a new ground for appeal at this time. If so, that will be reviewed for standing by the Appeal Decision-maker and either denied or approved. If approved, it will be forwarded to the other Parties, who will have the opportunity to submit a written response within five (5) business days.
- d. Notice of Appeal Outcome: The Notice of Appeal Outcome will be sent to all parties simultaneously by the Appeal Decision-maker. This Notice will include the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which MCC is permitted to share according to law, and the rationale supporting the essential findings to the extent MCC is permitted to share under state or federal law. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' MCC-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.
- e. Sanction/discipline status during Appeal: Student sanctions or employee discipline are stayed during the appeal process. Supportive measures may continue or be put in place at this time.

16. Recordkeeping: MCC will maintain records of the complaints, policies and processes set forth in this Title IX policy pursuant to institutional and legal requirements.

VIII. Form
Title IX Appeal Form

IX. Effective Date

This policy goes into effect August 14, 2020.

X. Policy History

August 2020: This policy was created as a stand-alone policy separate from the Sexual Misconduct policy to comply with the newly-revised requirements of 20 U.S.C. 1681 and 34 CFR part 106. This policy was adapted and modified from an ATIXA model policy and is used with permission. ATIXA 2020 One Policy, Two Procedures Model: Use and Adaptation of this Model with Citation to ATIXA is permitted through a limited license to Montcalm Community College. All other rights reserved. © 2020. ATIXA.