



Title IX Investigation Procedure

The Title IX Coordinator may modify these procedures and communicate the changes at any time as deemed appropriate for compliance with federal, state, local law or applicable guidance.

A. REPORTING A COMPLAINT

An individual who has been the victim of sexual harassment, domestic violence, dating violence, sexual assault, sexual exploitation, sex/gender discrimination, stalking, or other sexual misconduct, is encouraged to report the incident promptly to the Title IX Coordinator or his/her designee by calling, writing or coming in to the Title IX Office and/or Public Safety Office, if they so desire. These procedures apply to all individuals who have an institutional relationship with Mott Community College (faculty, staff, students, visitors, etc.).

Standard of Proof: In every sexual misconduct investigation, the standard of proof required is a preponderance of evidence (the evidence demonstrates that it is more likely than not that the conduct occurred).

Criminal Reporting: Although MCC strongly encourages all members of its community to report violations of this policy to law enforcement, it is the reporting party's choice whether or not to make such a report, and reporting parties have the right to decline involvement with the police. Reports of all domestic violence, dating violence, sexual assault and stalking made to MCC's Public Safety Office will automatically be referred to the Title IX Coordinator for investigation, regardless of the reporting party's desire to pursue criminal charges. As the Title IX Coordinator is a Campus Security Authority, they will report that the incident occurred for the purposes of Clery Crime Reporting. The College will proceed with an investigation without the consent of the reporting party if there is a danger to the campus or the community.

False Reporting: Faculty members, staff members or students who knowingly provide a false complaint under this policy to a College official, or intentionally mislead College officials who are involved in the investigation or resolution of a complaint, may be subject to disciplinary action.

For further information, please review Title IX Reporting Guidelines at www.mcc.edu/titleix.

B. INTERIM MEASURES ASSESSMENT

Upon receiving a complaint of sexual misconduct, the College will immediately execute interim measures to stop the misconduct, keep the reporting party and campus community safe, and ensure equal access to educational programs and activities. All actions will be implemented without penalty to the reporting party and will be provided while an investigation is pending. Possible interim measures may include separating the parties, placing limitations on contact between the parties, or making alternative arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of MCC Policy.

C. ASSESSMENT

When a complaint is made, the Title IX Coordinator or his/her designee may conduct an initial Title IX assessment. The first step of the assessment may be a preliminary meeting between the Reporting Party and the Title IX Coordinator or his/her designee. As part of the initial assessment of the complaint, the College will:

- Assess the nature and circumstances of the allegation
- Notify the Reporting Party of the right to contact or decline to contact law enforcement if the conduct is criminal in nature, and if requested, assist them with notifying law enforcement
- Provide the Reporting Party with information about on- and off- campus resources
- Notify the Reporting Party of the available interim measures
- Provide the Reporting Party with an explanation of the Title IX Investigative Process
- Inform the Reporting Party and the Respondent that they may seek a representative of their choosing to assist them throughout the investigation and resolution of the complaint, and that the representative may accompany them to any meeting or proceeding under this policy
- Explain the College's policy prohibiting retaliation
- Discuss the Reporting Party's expressed preference for manner of resolution and any barriers to proceeding

D. MANNER OF RESOLUTION

Early Resolution (Informal Investigation): The Title IX Coordinator and/or Deputy Investigator may attempt to resolve any Title IX complaints by informing, educating, or negotiating voluntary agreements through mediation in accordance with College policy and procedures.

The goal of early resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. Early resolution may include an inquiry into the facts, but typically does not include a formal investigation. Means for resolution shall be flexible and encompass a full range of possible appropriate outcomes. Early resolution can include options such as discussions with the parties, making recommendations for resolution, implementing no contact orders, and conducting follow-up after a period of time to assure that the resolution has been implemented effectively. Early resolution may be appropriate for responding to anonymous complaints and/or third party complaints. Steps taken to encourage resolution and agreements reached through early resolution efforts will be documented. Early resolution through mediation is not an option in sexual violence cases, which will be processed in a formal investigation.

Formal Investigation: If no resolution can be reached that is acceptable to all parties and to the College, the Title IX Coordinator and/or Deputy Investigator may, if appropriate, institute an investigation. The Title IX Coordinator and/or Deputy Investigator may also determine that an investigation is warranted without a complaint, either because of the severity of the allegations reported, or because of the frequency of allegations against the accused, or for any other reason.

E. FORMAL INVESTIGATION PROCEDURE

The Title IX Coordinator and/or Deputy Investigator shall investigate the circumstances of the alleged offense to the extent necessary to make a determination as to whether the allegations contained in the complaint constitute a violation of the *MCC Policy*. For incidents involving employees, the Title IX Coordinator will contact and consult the Office of Human Resources during the investigation.

Notice of Investigation: Upon the initiation of an investigation, the Title IX Coordinator and/or Deputy Investigator will send a Notice of Investigation to both parties which:

1. advises the parties of the initiation of an investigation;
2. includes the name of the reporting party/parties;
3. includes a statement of the allegations;
4. identifies the violation(s) of *Title IX* which is represented by the allegations;
5. provides parties with a statement on prohibiting retaliation.
6. provides the website address of where the parties can locate a copy of the *Title IX Investigation Procedure*; and,
7. describes the need to schedule an appointment with the Title IX Coordinator and/or Deputy Investigator, if applicable.

Time Frame: This investigation should normally be completed within sixty (60) working days. If the investigation cannot be completed within that time, the Title IX Coordinator and/or Deputy Investigator will so inform the reporting party/parties and the respondent via written letter.

Interviews: The Title IX Coordinator and/or Deputy Investigator will interview anyone and examine any evidence deemed necessary to investigate the complaint fully. The investigation generally shall include interviews with all parties if available, interviews with other witnesses as needed and a review of relevant documents as appropriate. Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation.

Representative: Upon request, the reporting party/parties and the respondent may each have a representative present when he or she is interviewed. Other witnesses may have a representative present at the discretion of the Title IX Coordinator and/or Deputy Investigator.

Investigative Report: Generally, an investigation should result in a written report that, at minimum, includes: a statement of the allegations and issues; the positions of the parties; a summary of the evidence; findings of fact; and a determination by the Title IX Coordinator and/or Deputy Investigator as to whether it is more likely than not that the conduct occurred (preponderance of the evidence standard) which constitutes a violation of the *MCC Policy* or that the facts do not support the allegations and the complaint shall be dismissed. The report also may contain a recommendation for actions to resolve the complaint, including educational programs, remedies for the reporting party/parties, appropriate discipline for the respondent. The report may be used as evidence in other related procedures, such as subsequent complaints, grievances and/or disciplinary actions. The report is not shared with either party unless requested in writing.

F. FINDINGS AND SANCTIONS

If the investigation concludes that a preponderance of the evidence exists which suggests a **student** engaged in sexual harassment, domestic violence, dating violence, sexual assault, sexual exploitation, sex/gender discrimination, stalking, or other sexual misconduct the sanctions will be addressed through the Title IX Office. Students who are found responsible for having committed such a violation may face disciplinary actions, up to and including expulsion from the College. If a Title IX investigation concludes that a preponderance of the evidence exists which suggests that an **employee** engaged in sexual harassment, domestic violence, dating violence, sexual assault, sexual exploitation, sex/gender discrimination, stalking, or other sexual misconduct the sanctions will be addressed through the Office of Human Resource and pursuant to relevant collective bargaining agreements. Employees who are found responsible for having committed such a violation may face disciplinary actions, up to and including termination of employment.

Even if the Title IX Coordinator and/or Deputy Investigator does not make a finding of a violation of the *MCC Policy*, but the Title IX Coordinator and/or Deputy Investigator believes the behavior complained of may constitute misconduct, the Title IX Coordinator and/or Deputy Investigator may refer the matter pursuant to the appropriate discipline process.

Notice of Conclusion of Investigation, Findings and Sanctions: In compliance with section 444 of the General Education Provisions Act (20 U.S.C. 1232G), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA) the reporting party and the respondent shall be informed simultaneously by certified mail when the investigation is completed.

The reporting party shall be informed if there were findings made that the *MCC Policy* was or was not violated and of actions taken to resolve the complaint, if any, that are directly related to the reporting party, such as an order that the respondent not contact the reporting party.

Administration of Student Sanctions: Potential student sanctions will be applied based upon the facts and circumstances of the case, and parties will be notified by certified mail. Sanctions may include:

- Verbal warning
- Written warning
- Probation
- Permanent removal from a course
- Suspension
- Expulsion

G. APPEAL PROCESS

If the Reporting Party/Respondent contests one or more of the recommended finding(s), the Reporting Party/Respondent may submit to the Title IX Coordinator a written statement explaining why the Reporting Party/Respondent contests such finding(s).

Grounds for Appeal: The grounds for appeal are limited to:

1. A procedural error or omission occurred that significantly affected the Investigative Findings and/or Determination (e.g., substantiated bias, material deviation from established procedures, etc.);
2. To consider new evidence, unknown or unavailable during the original Investigation, that could substantially impact the Investigative Findings and/or Determination; and/or
3. The recommended Corrective Actions are substantially disproportionate to the severity of the violation.

Filing an Appeal: The Reporting Party or the Respondent shall have fifteen (15) days from receipt of certified letter of Notice of Conclusion of Investigation, Findings and Sanctions to file an appeal with the Title IX Coordinator. The appeal shall state in writing the grounds for appeal and the specific reasons why the investigative findings, determinations, and/or recommended sanctions should be reversed or modified. Failure to file an appeal will render the decision final and conclusive.

The reporting party and the respondent may request a copy of the investigative report. However, in accordance with College policy, the report shall be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report.

The Title IX Coordinator will ensure that both the Respondent and Reporting Party have an opportunity to review and to respond in writing to any appeal. The Title IX Coordinator will provide the Final Investigation Report, together with any statements by the parties, to the Appeal Board for further proceedings.

Review Panel: A standing pool will be comprised of trained members of the Mott Community College community and, at the discretion of the Title IX Coordinator, external professionals with experience adjudicating cases of Prohibited Conduct. Three (3) members will be selected from this pool to serve on the Review Panel. One of the members will also serve as the Meeting Chair. All persons serving on any Review Panel must be impartial and free from actual bias or conflict of interest.

Standard of Review: The Appeal Board will hold a hearing to determine whether 1) a procedural error or omission has occurred that significantly affected the Investigative Findings and/or Determination (e.g., substantiated bias, material deviation from established procedures, etc.); 2) new evidence exists, unknown or unavailable during the original Investigation, that could substantially impact the Investigative Findings and/or Determination; and/or 3) the recommended sanctions are substantially disproportionate to the severity of the violation.

Notice of Hearing: Notice of the formal charge(s) and of the time and place of the hearing shall be sent by the Appeal Board Team to the student at the address appearing on the records of the college by certified mail.

Representatives: Both the Reporting Party and the Respondent have the right to be accompanied at the Hearing by a representative of their choosing. The representative may be anyone, including an attorney, who is not otherwise a party or witness. While the representative may provide support and advice to a party at the hearing, the representative may not speak on behalf of the party, or otherwise participate in, or in any manner disrupt the Hearing. The College reserves the right to remove any individual whose actions are disruptive to the proceedings.

Appeal Determination: Appeals shall be decided upon the record of the original investigation and upon written summaries submitted by the parties. A new hearing shall not be conducted.

If the Appeal Board finds that concerns stated by the contesting party raise substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation, it will remand the matter to the Title IX Coordinator with instructions for further investigation or other action.

If the Appeal Board finds no cause for substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation *and* affirms that there is sufficient evidence to support a recommended finding of responsibility by a Preponderance of the Evidence, the original recommended sanction(s) will be upheld and the matter will be considered resolved and closed.

If the Appeal Board finds that the recommended sanctions are substantially disproportionate to the severity of the violation, it will affirm the finding and reduce, but not eliminate, the sanction. Sanctions may only be reduced if found to be grossly disproportionate to the offense.

Cases may be dismissed if the findings are held to be arbitrary and capricious. On appeal, the decision of the Appeal Board shall be final and conclusive.