

## TITLE IX SEXUAL MISCONDUCT POLICY

*Effective August 14, 2020*

*This version of the policy supersedes all other policy versions published before August 14, 2020. All college publications containing or referencing MCC's Title IX sexual misconduct, sexual harassment or sex discrimination policies and procedures will be updated to align with this policy version in their next update cycle.*

### **Policy Statement**

It is the policy of Midwestern Career College (MCC) to provide work and educational environment free of all forms of sex discrimination and misconduct, including but not limited to sexual harassment, sexual assault, inducing incapacitation for sexual purposes, sexual exploitation. Interpersonal violence, including domestic violence, dating violence, and stalking which occurs in the course of an education program or activity of the college, is also prohibited by this policy. This policy applies to all students, faculty, staff, and other members of MCC's community, such as contractors, consultants, and vendors affiliated or providing services to the college.

### **Applicable Federal and State Laws**

The MCC's Title IX Sexual Misconduct policy addresses the requirements of Title IX of the Education Amendments of 1972 ("Title IX"), the Violence Against Women Reauthorization Act of 2013, and the Illinois Preventing Sexual Violence in Higher Education Act.

Title IX is a federal law that prohibits sex discrimination in federally funded education programs and activities. Title IX states as follows:

*"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."*

Discrimination on the basis of sex (i.e., sex discrimination) includes sexual misconduct, which includes sexual harassment, sexual assault (also referred to as sexual violence), inducing incapacitation for sexual purposes, and sexual exploitation.

The Violence Against Women Reauthorization Act of 2013 requires colleges and universities to have particular policy statements and offer educational programming regarding domestic violence, dating violence, sexual assault, and stalking.

The Illinois Preventing Sexual Violence in Higher Education Act is a state law that addresses student allegations of sexual violence, domestic violence, dating violence and stalking at higher education institutions.

Title VII of the Civil Rights Act of 1964 and the Illinois Human Rights Act are two other laws that also prohibit sex discrimination.

## **Prohibited Sexual Misconduct**

Midwestern Career College affirms its commitment to create and maintain an environment free from acts of sexual misconduct and to foster within that environment respect for the dignity of all members of the community.

It is the policy of MCC to comply with Title IX of the Education Amendments of 1972, which prohibits discrimination (including sexual harassment and sexual violence) based on sex in the college's educational programs and activities. It is also MCC's policy to comply with the federal Violence Against Women Act amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act, and the accompanying regulations (collectively referred to as VAWA).

Accordingly, MCC will not tolerate acts of sexual misconduct.

The following offenses are considered sexual misconduct and are prohibited by the college.

### ➤ *Sexual Harassment*

For Title IX purposes, sexual harassment is defined as:

- Any instance of quid pro quo harassment by an MCC employee;
- any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access;
- any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

### ➤ *Sexual Assault*

Sexual assault (also referred to as sexual violence) is a type of sexual harassment that involves actual or attempted sexual contact with another person without that person's consent. Sexual assault may involve individuals who are known to one another or have an intimate and/or sexual relationship or may involve individuals not known to one another. Sexual assault includes, but is not limited to:

- *Sexual Penetration without Consent:* Having or attempting to have sexual intercourse with another individual without consent. Sexual intercourse includes any vaginal or anal penetration, however slight, with any body part or object, or oral penetration by a sex organ of another person, when consent is not present, or coercion and/or force is used.
- *Sexual Contact without Consent:* Having or attempting to have sexual contact with another individual without consent. Sexual contact includes kissing, touching the private or intimate parts of another person for sexual gratification, or disrobing another person when consent is not present, or coercion and/or force is used. This includes contact done directly or indirectly through clothing, bodily fluids, or with an object. It also includes causing or inducing a person, when consent is not present, to similarly touch or fondle oneself or someone else. Intimate parts may include the breasts, genitals, buttocks, mouth or any other part of the body that is touched in a sexual manner.
- *Incest:* Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by the laws of the state in which the incident occurred.
- *Statutory Rape:* Sexual intercourse with a person who is under the legal age of consent.

### ➤ *Inducing Incapacitation for Sexual Purposes*

Inducing incapacitation for sexual purposes includes using, or causing another person or person to use drugs, alcohol, or other means with the intent to affect the ability of an individual to consent or refuse to

consent to sexual contact.

➤ *Sexual Exploitation*

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for personal benefit, or to benefit anyone other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses. Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person;
- Non-consensual visual (e.g., video, photograph) or audio-recording of sexual activity;
- Non-consensual distribution of photos, other images, or information of an individual's sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information;
- Exceeding the boundaries of consent;
- Engaging in non-consensual voyeurism;
- Knowingly transmitting an STI, such as HIV, to another without disclosing one's STI status;
- Exposing one's genitals in non-consensual circumstances, or inducing another to expose their genitals;
- Possessing, distributing, viewing, or forcing others to view illegal pornography.

**Interpersonal Violence**

MCC affirms its commitment to create and maintain an environment free from acts of interpersonal violence and to foster within that environment respect for the dignity of all members of the community. The College does not tolerate acts of interpersonal violence such as the following:

➤ *Stalking*

Stalking is defined as engaging in a course of conduct 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, acts in which the stalker 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.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

➤ *Dating Violence*

Dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party'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

➤ *Domestic Violence*

Domestic Violence – is defined as a felony or misdemeanor crime of violence committed:

- By a current or former spouse or intimate partner of the victim;
- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
- By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred

**Examples of Prohibited Sexual Misconduct in Higher Education**

- A professor who continuously makes jokes of a sexual nature in the classroom;
- An admission counselor who tells a student he or she might be able to get into a class if the student dates the advisor;
- An admissions counselor who tells a prospective student that the advisor will put in a “good word” for the prospective student if he or she dates the advisor;
- A financial assistance coordinator who tells a student that “if you have sex with me, I can look out for scholarships for you;”
- A lab assistant who promises a student a better grade if the student does not resist any inappropriate touching or sexual advances.

**Reporting Options and Available Resources**

MCC strongly encourages those who have experienced sexual discrimination or misconduct, and anyone with a knowledge of sexual discrimination or misconduct, including third-party bystanders, to report incidents of sexual misconduct to the Title IX Coordinator and/or other designated college employees.

MCC has designated certain college personnel as mandatory Title IX Reporters by virtue of their role and responsibilities on campus. Mandatory Title IX Reporters are either people designated under MCC policies as those to whom sexual misconduct should be reported (Title IX Coordinator); or officials of the college with significant responsibility for student and campus activities and therefore, have authority to institute corrective measures on behalf of the institution.

Mandatory Title IX Reporters are college employees at a manager, associate director, director, or executive level including, but are not limited to the following roles/titles:

- Title IX Coordinator
- MCC Campus Emergency Coordinators;
- Director of Academic Operations;
- Academic Dean;
- Program Directors;
- Academic Managers;

- Director of External Development and Operations;
- HR Director;
- Staff supervisors of student employees;
- Registrar and Associate Registrar;
- Associate Director of International Department;
- Designated School Official (DSO);
- Financial Aid Director;
- Associate Director of Clinical Externship;
- Associate Director of Career Services.

Other college employees, including FT and adjunct faculty, who have or receive information of sexual misconduct in the college's programs or activities and are encouraged to report the incident to the Title IX Coordinator and review MCC's Title IX Sexual Misconduct Policy found at <https://mccollege.edu/consumer-information/>.

➤ Title IX Coordinator

MCC has designated the Title IX Coordinator, to coordinate MCC's compliance with Title IX and VAWA and to respond to reports of violations. Title IX Coordinator is trained in the college's policies and procedures, state and federal law and other issues related to sex discrimination and sexual misconduct.

Specifically, Title IX Coordinator:

- Oversees the investigation of all formal complaints of prohibited misconduct under this policy;
- Advises complainants (individuals alleging misconduct), respondents (individuals accused of alleged misconduct) and/or third parties regarding the courses of action available at the college and in the community for resolving complaints of sex discrimination and sexual misconduct;
- Provides assistance to all employees regarding how to appropriately respond to a report of prohibited sexual misconduct under this policy;
- Conducts and/or reviews on-going climate checks, tracking, monitoring of sexual misconduct allegations on campus and reports findings to college officials and/or the campus community, where appropriate;
- Assists in preparing federal and state required compliance reports;
- Oversees training, education, and sexual misconduct prevention efforts;
- Provides and participates in on-going training designed to assist in implementing this policy.

*Title IX Coordinator*

Mary Schmidt  
 100 S. Wacker Dr., LL1-50  
 Chicago, IL 60606  
 (312) 236-9000 Ext. 1051  
[mschmidt@mccollege.edu](mailto:mschmidt@mccollege.edu)

Any person, (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sexual misconduct), may report sexual misconduct in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address, listed for the Title IX Coordinator.

➤ *On-Campus Confidential Advisor*

In accordance with The Illinois Preventing Sexual Violence in Higher Education Act, MCC has designated an on-campus Confidential Advisor to provide individuals wishing to obtain confidential assistance without making an official report to MCC an option to do so.

Olivia Sweiss  
100 S. Wacker Dr., LL1-50  
Chicago, IL 60606  
(312) 236-9000 Ext. 1033  
[osweiss@mccollege.edu](mailto:osweiss@mccollege.edu)

The College Confidential Advisor is available to discuss incidents of sex discrimination and sexual misconduct in confidence. Disclosures to confidential advisors will not trigger MCC's investigation into an incident. In addition to providing confidential counseling, confidential advisors also provide emergency and ongoing support to individuals who have experienced sexual misconduct, including:

- An explanation of the individual's right to have privileged, confidential communications with the confidential advisor consistent with state and federal law;
- Providing information regarding the individual's reporting options and possible outcomes, including reporting to the College's Title IX Coordinator/s pursuant to this policy and notifying local law enforcement;
- Providing resources and services, including, but not limited to, services available on campus and through community-based resources, such as, sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services, and mental health services;
- Assistance in contacting campus officials, and/or local law enforcement upon request;
- Assistance with securing interim protective measures and accommodations upon request.

➤ *Electronic Reports, Including Anonymous Reporting Option*

Electronic Reports, including anonymous reports, may be submitted by completing the form found at <https://mccollege.edu/confidential-sexual-misconduct-report-form/>

This form can be used to report alleged violations of the college's Sexual Misconduct policy. The reporters may submit the report anonymously. Anonymous reports will be investigated to the greatest extent possible based on the amount of information provided. The college's ability to take action against an accused may be limited in the case of anonymous reports.

➤ *Off-Campus Confidential Resources*

The following off-campus agencies also employ individuals available to discuss incidents of misconduct in confidence. Disclosures to these entities will not prompt MCC's investigation into an incident. Please note that limitations of confidentiality may exist for individuals under the age of 18.

- 24-Hour Chicago Rape Crisis Hotline: 1-888-293- 2080
- 24-Hour Sarah's Inn Domestic Violence Crisis Line: 708-386-4225
- 24-Hour City of Chicago Domestic Violence Help Line: 1-877-863-6338
- 24-Hour Spanish Speaking Domestic Violence Hotline: 312-738-5358
- The Zacharias Sexual Abuse Center: 847-972-1790
- National Sexual Assault Telephone Hotline: 800-656-HOPE (4673).

- Center on Halsted LGBTQ Violence Resource Line: 773-871-CARE (2273).

➤ *Department of Education's Office for Civil Rights*

A person may file a complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting <https://ocrcas.ed.gov/contact-ocr> or calling 1-800-421-3481.

### **Privacy of Sexual Misconduct Reports**

The privacy of all parties involved in reports of sexual misconduct will be respected to the extent permitted under the relevant law. Information related to a report of sexual misconduct will be shared only with those employees who need to know to assist in the investigation and/or resolution of the matter pursuant to the MCC's Sexual Misconduct Complaint Resolution Procedures. All MCC employees who are involved in the review, investigation or resolution of sexual misconduct complaints will receive specific training regarding the safeguarding of private information.

### **Requests for Confidentiality**

In some cases, an individual may disclose an incident of sexual misconduct to a non-confidential source but wish to maintain confidentiality or request that no investigation into a particular incident be conducted or disciplinary action be taken. MCC must weigh such requests against the college's obligation to provide a safe, non-discriminatory environment for all members of the MCC community, including the individual who has experienced the alleged misconduct. Although rare, there are times when the college may not be able to honor an individual's request for confidentiality in order to provide a safe, non-discriminatory environment.

In general, the complainant's wishes with respect to whether the college investigates, will be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

When weighing an individual's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider whether the college possesses other means to obtain the relevant information, as well as whether:

- There have been other sexual misconduct complaints about the accused individual;
- The accused individual has records from a prior educational institution or elsewhere indicating a history of sexual misconduct;
- The accused individual threatened further sexual misconduct or other violence against the complainant or others;
- The alleged sexual misconduct was committed by multiple accused individuals;
- The alleged sexual misconduct was perpetrated with a weapon;
- The alleged sexual misconduct was committed against a minor; and/or
- The complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead further investigation and, if appropriate, pursue disciplinary action pursuant to the formal resolution process set forth in the college's Sexual Misconduct Grievance Process despite an individual's request for confidentiality and/or that no investigation be conducted. If MCC determines that it cannot maintain an individual's confidentiality or uphold a request that the complaint not be investigated, the college will inform the individual and will, to the extent possible, limit the information shared during the Sexual Misconduct Grievance Process.

If none of the above factors are present, the college may honor the individual's request for confidentiality or that an investigation not be conducted. If the college honors such request, the college's ability to fully investigate the incident and pursue disciplinary or other action against the respondent(s) may be limited.

The college will keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.

### **Supportive Measures**

Upon receiving the report of Title IX sexual misconduct, the college will promptly offer supportive measures to the person alleged to be the victim (referred to as the "complainant").

Supportive measures are defined as individualized services reasonably available that are nonpunitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

The Title IX Coordinator will promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

### **TITLE IX SEXUAL MISCONDUCT GRIEVANCE PROCESS**

MCC is committed to responding promptly to all allegations of sexual misconduct independent from law enforcement and criminal court proceedings by offering supportive measures to every complainant (i.e., an individual who is alleged to be the victim of sexual harassment); investigating every formal complaint filed by a complainant or signed by a Title IX Coordinator; and effectively implementing remedies designed to restore or preserve a complainant's equal educational access any time a respondent is found responsible for sexual harassment. The college will follow a grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures, against a respondent. The college will not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX.

### **Definitions:**

- Complainant - an individual who is alleged to be the victim of conduct that could constitute sex discrimination or sexual misconduct.
- Respondent - an individual who has been reported to be the perpetrator of conduct that could constitute sex discrimination or sexual misconduct.
- Third-party Reporter/Witness - an individual who reports sexual misconduct occurring between individuals other than him/herself.
- Investigator - a person who conducts investigation into the circumstances described in the official complaint. The investigation can be done by Title IX Coordinator or designee.
- Adjudicator (or Decision-Maker) an individual who conducts the live hearing and makes a decision on the responsibility of the respondent(s). The decision-maker cannot be the same person as the Title IX Coordinator or the investigator.



### **Formal Complaint**

A Formal Title IX Complaint (“formal complaint”) is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual misconduct against a respondent and requesting that the school investigate the allegation of sexual misconduct

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed.

A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator, and by any additional method designated by the school.

The phrase “document filed by a complainant” means a paper document or electronic submission (such as by e-mail or through an online form provided for this purpose by the college) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or a party during a grievance process and will comply with requirements for Title IX personnel to be free from conflicts and bias.

The college may, under college’s discretion, consolidate formal complaints where the allegations arise out of the same facts.

Upon receiving a formal complaint of sexual misconduct, the Title IX Coordinator or designee will provide the parties with a written notification of the formal complaint including

- The notice explaining the grievance process;
- Specific details about the complaint such as where it happened and when;
- A statement that the parties may have the right to an advisor of their choice who may be an attorney;
- If a party does not have an advisor, the school will provide an advisor of its choice, free of charge, to conduct cross-examination. The advisor may be, but is not required to be, an attorney.
- The provisions from MCC’s standards of student conduct regarding consequences for knowingly making false complaints and/or false statements.

The college will provide an advance notice in writing to all the parties of when they are invited or expected to participate in an interview, meeting, or hearing.

The college will provide the parties with any additional allegations of sexual harassment that arise during the investigation and which may be the subject of the investigation.

### **Optional Dismissal of Formal Complaints**

The college may, under college’s discretion, dismiss a formal complaint or allegations therein if the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein, if the respondent is no longer enrolled or employed by the school, or if specific circumstances prevent the school from gathering sufficient evidence to reach a determination. The college will give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.

If the allegations in a formal complaint do not meet the definition of Title IX sexual harassment, or did not occur in the college's education program or activity against a person in the United States, the college will dismiss such allegations for purposes of Title IX but may still address the allegations in any manner the college deems appropriate under the college's student code of conduct and/or employee or faculty handbook.

### **Respondent Leaving the College**

Should a respondent decide to leave the college and not participate in the grievance process, the process will nonetheless proceed in the respondent's absence to a reasonable resolution if a formal complaint is not dismissed. If found responsible for the violation of the Title IX Sexual Misconduct policy, the respondent will not be permitted to return to college until sanctions issued, if any, have been satisfied.

### **Informal Resolution Option**

Informal resolution option is not available to the parties unless a formal complaint is filed. Once the formal complaint is filed, the college, in college's discretion, may choose to offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to attempt informal resolution. Any person who facilitates an informal resolution will be well trained.

The college may not require waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right. Similarly, the college may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed.

At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

The college will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

### **Investigation**

The college will investigate Title IX sexual harassment allegations in any formal complaint, which can be filed by a complainant, or signed by a Title IX Coordinator.

Investigations will be conducted by the Title IX Coordinator or another internal or external investigator appointed by the Title IX Coordinator.

If at any point during the investigation it is determined that there is no reasonable cause to believe that sexual misconduct occurred, the Title IX Coordinator may terminate the investigation and refer the matter to the appropriate campus office for resolution or close the matter with no further action.

Investigations may include one or more interviews with the complainant, respondent, and any other identified witnesses. Interviews may take place in person, by phone or through electronic means. Investigations may also include the gathering and analysis of physical, documentary and/or other relevant evidence. Additionally, complainants and respondents will have an opportunity to provide written

statements, identify and/or present statements from fact witnesses or submit any other evidence they deem relevant.

- The burden of gathering evidence and burden of proof will remain with the college, not with the parties. However, parties can gather and present evidence of their own.
- The college will not restrict the ability of the parties to discuss the allegations or gather evidence.
- The college will provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- The parties will have the same opportunity to select an advisor of the party's choice who may be, but need not be, an attorney.
- The college will send written notice of any investigative interviews, meetings, or hearings to all the parties.
- The college will send the parties, and their advisors, evidence directly related to the allegations in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence.

### **Investigative Report**

After the investigation has been completed, the investigator will prepare a report containing:

- summaries of interviews with the complainant, respondent, and third-party witnesses;
- a description and analysis of other relevant information collected,
- a statement of the investigator's material findings of fact;
- any other relevant information concerning the investigation and/or these procedures.

The college will send the parties, and their advisors, an investigative report in electronic format or hard copy, with at least 10 days for the parties to respond. Parties may provide a written response to the investigative report prior to the hearing or other grievance proceeding where responsibility will be determined.

### **Hearing**

As part of the grievance process, the college will conduct a live hearing with cross-examination included as part of the hearing.

- At the live hearing, each party's advisor will be able to ask the other party and any witnesses all relevant questions and follow-up questions, including the questions challenging credibility.
- Such cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
- At the request of either party, the college will provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.
- Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the college adjudicator(s) will first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant.
- Both parties can submit written questions for the other parties and witnesses to answer before the decision maker determines responsibility.
- If a party does not have an advisor present at the live hearing, the school will provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.

- If a party or witness does not submit to cross-examination at the live hearing, the college adjudicator(s) will not rely on any statement of that party or witness in reaching a determination regarding responsibility. However, the college-adjudicator(s) are not allowed to draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- Live hearings may be conducted with all parties physically present in the same geographic location or, at the college's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually.
- The college will create an audio or audiovisual recording, or transcript, of any live hearing.
- The college will provide partitions to complainants upon request

### **Standard of Proof**

The college will use the *preponderance of the evidence standard* in all formal complaints to determine whether or not there is sufficient information to establish a violation of the college's Sexual Misconduct policy. A preponderance of the evidence means whether the information provided during the investigation and hearing supports a determination that it is "more likely than not" a violation of the college's Sexual Misconduct policy has occurred.

### **Written Determination**

The adjudicator will issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions, if any, imposed on the respondent, and whether remedies will be provided to the complainant. The written determination will be sent simultaneously to the parties along with information about how to file an appeal.

### **Appeal**

The college will offer both parties an appeal from a determination regarding responsibility, and from a school's dismissal of a formal complaint or any allegations therein, on the following bases: procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, and/or Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter.

In any request for an appeal, the burden to demonstrate procedural error, new evidence or disproportionate sanction lies with the party requesting the appeal. Mere disagreement with the decision is not grounds for appeal.

Either party may appeal submitting a written request for appeal, with supporting documentation, to the College's CEO, within ten (10) calendar days of the date of receipt of the decision or the written notice of sanctions, whichever is later.

The CEO will either assign a new adjudicator(s) to review the appeal ("appeal officer(s)"). The appeal officer(s) cannot be the same decision maker(s) who made the initial determination of responsibility.

The appeal officer(s) will request a copy of the investigative report, the hearing notes, and a copy of written determination, as well as all other relevant information from the investigation. The appeal officer(s) will act upon the appeal by (a) confirming the original decision, (b) altering any sanctions or penalties imposed, (c) requesting the parties to submit additional information prior to rendering a decision, or (d) reversing the determination of responsibility. The appeal officer(s) will make a determination within ten (10) calendar days of receipt of all the appeal materials. The timeframe for

appeal determination can be extended as necessary for good cause with notice to all the parties. The notice will provide explanation of the reason(s) for the extension.

Both the complainant and the respondent will be notified of the outcome of the appeal in writing within three (3) calendar days of the date of the decision. The decision rendered by the appeal adjudicator is final and cannot be further appealed with the college.

### **Resolution Time Frame**

The college aims to resolve all sexual misconduct reports and appeals (where applicable), within sixty (60) calendar days. This time period can be extended by the college, as necessary, for good cause with notice to all the parties of the extension and an explanation of the reason(s) for the extension. The Title IX Coordinator or designee will regularly notify the parties of the status of the proceedings throughout their duration.

### **Prior Sexual History**

In general, a complainant's prior sexual history is not relevant and will not be admitted as evidence during an investigation. However, if where there is a current or ongoing relationship between the complainant and the respondent, and the respondent alleges that consent was given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. The mere fact of a current or previous dating or sexual relationship, by itself, is insufficient to constitute consent.

Questions or evidence about a complainant's sexual predisposition are not permitted (with no exceptions). Questions or evidence about a complainant's prior sexual behavior are generally not permitted, subject to two exceptions: If offered to prove that someone other than the respondent committed the alleged sexual harassment, or if the question or evidence concerns sexual behavior between the complainant and the respondent and is offered to prove consent.

The investigator may consider prior or subsequent allegations of, or findings of responsibility for similar conduct by the respondent to the extent such information is relevant.

### **Sanctions and Remedies**

Disciplinary sanctions for violation of the college's Title IX Sexual Misconduct Policy include:

- Verbal or written warning;
- Mandatory educational programming;
- Probation;
- Removal from campus programs/activities/leadership positions;
- Restrictions regarding entering certain buildings or areas of campus;
- Performance improvement/management process (employees only);
- Suspension from school or employment (with or without pay, in the case of employees);
- Termination of enrollment or employment with the college.

### **Respondent Failure to Complete Sanctions**

Respondents who fail to complete issued sanctions will not be able to continue their enrollment or employment with the college.

### **Conflict of Interest**

MCC requires any college personnel (including contractors) facilitating the grievance be free from conflicts of interest and bias and disclose any potential or actual conflict of interest. All college personnel will be trained to serve impartially. If a complainant or respondent believes that an investigator has a conflict of interest, the party should submit a request to replace the investigator to the Title IX Coordinator. If the Title IX Coordinator is the investigator believed to have a conflict of interest, the party should submit such request to the CEO of the college. In all cases, requests to replace an individual due to conflict of interest must be submitted within three (3) days of a party's notice of the conflicted individual's participation. The written request must include a detailed description of the conflict. If it is determined that the conflict of interest exists, the college will take steps to address the conflict as appropriate to maintain an impartial process.

### **Recordkeeping**

Records of each Title IX sexual misconduct investigation will be kept by a minimum of seven (7) years by the Title IX coordinator or designee. The notice of sanction and/or appellate determination will be maintained by the Registrar's office if the respondent(s) is a student as part of a student's permanent academic file, and by the Director of HR as part of an employee-respondent's HR file. All notes and documents exclusively used by the investigator but not made part of the final report will be destroyed after an appellate determination (or, if no appeal, a sanction, or final determination) is made.

### **Reporting to Law Enforcement**

MCC encourages complainants to report to the police any allegation of sexual misconduct that could rise to the level of a crime. The college will assist individuals wishing to do so.

Complainants have the right to request that law enforcement implement emergency protective restraining orders or to pursue such orders through the civil court process. Complainants who receive emergency or permanent protective or restraining orders through a criminal or civil process should notify the Title IX Coordinator so that the college can work with the complainant and the subject of the restraining order.

Because the standards for finding a violation of criminal law are different from the standards for finding a violation of the Title IX Sexual Misconduct policy, criminal investigations or reports are not determinative of whether sexual misconduct, for purposes of this policy, has occurred. In other words, conduct may constitute sexual misconduct under this policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to investigate or prosecute or vice versa.

MCC's investigation of a complaint of sexual misconduct shall proceed independently from any law enforcement investigation, except when the college is required by law enforcement to defer the fact-finding portion of its investigation for a limited time while law enforcement gathers evidence. In such cases, the Title IX Coordinator or designee will inform the parties of the need to defer the college's fact-finding process and will provide regular updates on the status of the investigation and notify the parties when the college's fact-finding process can resume.

### **Medical Assistance**

Whether or not an individual who has experienced sexual misconduct decides to report an incident to MCC or the local Police Department, he or she is encouraged to seek immediate medical attention if required. Under Illinois law, certain medical personnel are required to alert police when the individual requesting treatment appears to have sustained injury as a victim of a criminal offense, including sexual violence. However, the individual may choose whether to speak to the police and is not required to do so.

### **Evidence Collection and Preservation**

Even if an individual has not been physically hurt, a timely medical examination is recommended so that forensic evidence can be collected and preserved. An individual may choose to allow the collection of evidence by medical personnel even if he or she chooses not to make a report to the police. In order to best preserve forensic evidence, it is suggested that an individual not shower, bathe, douche, smoke or change clothes or bedding before seeking medical attention, and that medical attention be sought as soon as possible. If the individual decides to change clothes, he or she can bring unwashed clothes worn during the incident to the hospital or medical facility in a paper (or other non-plastic) bag.

Under Illinois law, the cost of emergency medical or forensic examinations for sexual violence survivors not covered by private insurance or Illinois Public Aid will be covered by the Illinois Department of Healthcare and Family Services.

Individuals who have experienced sexual misconduct are also encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications and keeping pictures, logs, or other copies of documents.

### **Amnesty Provision**

MCC encourages reporting of sexual misconduct and seeks to remove any barriers to making a report. The college recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of potential consequences for their own conduct. To encourage reporting, an individual who makes a good faith report of sexual misconduct that was directed at them or another person will not be subject to disciplinary action by MCC for a conduct or policy violation that is related to and revealed in the sexual misconduct report or investigation, unless the MCC determines that the violation was serious and placed the health or safety of others at risk. This amnesty provision does not preclude or prevent action by police or other legal authorities.

### **False Reporting or Testimony**

Reports of sexual misconduct that are later found to be intentionally false or made maliciously without regard for truth shall constitute a violation of this policy and the standards of student conduct. This provision does not apply to reports made in good faith, even if the allegations in the report are not substantiated through the subsequent investigation. Likewise, a third-party witness who intentionally provides false or misleading testimony may be subject to disciplinary action under this policy and/or the standards of student conduct.

### **Protection Against Retaliation**

Title IX prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. MCC strictly prohibits retaliation against any member of its community for reporting an incident of sexual misconduct or for participating, in any manner, in an investigation, hearing or determination related to a report of sexual misconduct. MCC considers such actions to be protected activities in which all members of the college may freely engage.

Members of MCC community are prohibited from engaging in actions, directly or through others, that are aimed to discourage a reasonable party or a witness from reporting sexual misconduct or participating in any part of the Title IX grievance process.

The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the

course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement

### **Academic Freedom**

This policy does not prohibit legitimate academic discussion or comment. Sexual relations and other themes relating to gender or sexuality may be the subject of school lectures, classroom discussion, academic role playing, or informal debate and discussion. Such discussion and comment are not to be regarded as sexual harassment as long as the participants do not engage in offensive conduct that exceeds the legitimate and reasonable limits of academic endeavor.

### **Definition of Consent In Illinois**

"Consent" means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.

Additional information can be found at <http://www.ilga.gov/legislation/ilcs/documents/072000050K11-1.70.htm>

### **Sexual Misconduct Education and Awareness**

MCC provides educational programming that consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students, faculty, and staff that:

- Identify sexual misconduct which includes sexual harassment, sexual abuse, sexual assault or rape, domestic violence, dating violence and stalking as prohibited conduct;
- Define what behavior constitutes sexual harassment, sexual abuse, sexual assault or rape, domestic violence, dating violence and stalking;
- Defines 'consent to sexual activity' under University policy and state regulations
- Covers information on reporting sexual violence, assisting victims and survivors of sexual violence, and preventing sexual violence through bystander training.
- Explains rights of accuser and accused, including the right to file reports with external law enforcement agencies and the right to an advisor.



## **APPENDIX A: OFF CAMPUS RESOURCES**

### **CRISIS HOTLINES**

24-Hour Chicago Rape Crisis Hotline: 1-888-293- 2080  
24-Hour Sarah’s Inn Domestic Violence Crisis Line: 708-386-4225  
24-Hour City of Chicago Domestic Violence Help Line: 1-877-863-6338  
24-Hour Spanish Speaking Domestic Violence Hotline: 312-738-5358

Child Abuse, National Hotline: 800-252-2873  
Child Help National Child Abuse Hotline: 800-422-4453

Crisis Counseling, General: 847-228-6400  
Crisis Counseling, Teens: 847-228-8996  
Crisis Counseling, Children: 847-228-5437

DCFS Hotline: 800-252-2873

Domestic Violence – General: 800-603-4357  
Domestic Violence Hot Line – Chicago: 800-603-4357  
Domestic Violence Hot Line - Will County: 877-335-3020

Emergency Services, Chicago: 800-654-8595

Sexual Assault, General (RAINN): 800-656-4673

Sexual Assault Hotline – Chicago: 888-293-2080

Sexual Assault Crisis Line - Hickory Hills: 708-741-4500

National Suicide Prevention Lifeline ([www.suicidepreventionlifeline.org](http://www.suicidepreventionlifeline.org)): 800-273-8255

### **CHICAGO POLICE DEPARTMENT**

911 (emergency)  
311 (non-emergency)

### **POLICE DEPARTMENTS LOCATED NEAR EACH OF THE CAMPUS LOCATIONS**

#### **Chicago Campus**

Address: 1160 N Larrabee St, Chicago, IL 60610  
Phone: (312) 742-5870

#### **Blue Island Campus Extension**

Address: 13031 Greenwood Ave, Blue Island, IL 60406  
Phone: (708) 385-1313

#### **Naperville Campus Extension**

Address: 1350 Aurora Ave, Naperville, IL 60540  
Phone: (630) 420-6666

### **EMERGENCY ROOMS AVAILABLE TO PROVIDE FORENSIC EXAMINATION NEAR EACH OF THE CAMPUS LOCATIONS**

## **Chicago**

### **Chicago Lakeshore Hospital**

Address: 4840 N Marine Dr, Chicago, IL 60640

Phone: (773) 878-9700

### **Rush University Medical Center**

Address: 1620 W Harrison St, Chicago, IL 60612

Phone: (312) 942-5000

### **Advocate Illinois Masonic Medical Center**

Address: 836 W Wellington Ave, Chicago, IL 60657

Phone: (773) 975-1600

### **University of Illinois at Chicago**

Address: 1740 W Taylor St, Chicago, IL 60612

Phone: (866) 600-2273

### **Mercy Hospital and Medical Center**

Address: 2525 Michigan Avenue, Chicago, IL 60616

Phone: (312) 567-2000

## **Naperville**

### **University of Chicago Hospital**

Address: 1020 E Ogden Ave, Naperville, IL 60563

Phone: (773) 702-1000

### **Edward Hospital**

Address: 801 S Washington St, Naperville, IL 60540

Phone: (630) 527-3000

## **RESOURCE CENTERS AND ADVOCACY GROUPS NEAR EACH OF THE CAMPUS LOCATIONS**

### **Chicago**

#### **Chicago Children's Advocacy**

Address: 1240 S Damen Ave, Chicago, IL 60608

Phone: (312) 492-3700

#### **Rape Victim Advocates**

Address: 180 N Michigan Ave #600, Chicago, IL 60601

Phone: (312) 443-9603

### **Blue Island**

#### **Pillars' Sexual Assault Services**

708.PILLARS (708.745.5277)

#### **Domestic Violence Hotline**

708.485.5254

#### **Sexual Assault Hotline**

708.482.9600

**Naperville**

**Family Shelter Service (DuPage County)**

[www.familyshelterservice.org](http://www.familyshelterservice.org)

(630) 469-5650 HOTLINE

**Guardian Angel Community Services (Will County)**

[www.gacsprograms.org/groundwork](http://www.gacsprograms.org/groundwork)

(815) 729-1228 HOTLINE

**OTHER RESOURCES:**

**National Domestic Violence Hotline**

(800) 799-SAFE (7233)

(800) 787-3224 (TTY)

**Illinois Domestic Violence Help Line**

(877) 863-6338 (Chicago area)

(877) 863-6339 (TTY)

Office of the Illinois Attorney General

[www.illinoisattorneygeneral.gov](http://www.illinoisattorneygeneral.gov)

**Advocate Illinois Masonic Medical Center**

[www.advocatehealth.com/immc](http://www.advocatehealth.com/immc)

836 W Wellington Ave

Chicago, IL 60657 773-975-1600

**Apna Ghar Inc.**

[www.apnaghar.org](http://www.apnaghar.org)

4350 N Broadway St. Chicago, IL 60613

(773) 334-4663

**Arab-American Family Services**

[www.arabamericanfamilyservices.org](http://www.arabamericanfamilyservices.org)

9044 S Octavia Ave Bridgeview, IL 60455

(708) 599-2237

**A Safe Place**

[www.asafeplaceforhelp.org](http://www.asafeplaceforhelp.org)

2710 17th Street Zion, IL 60099

847-731-7165

24-Hour Crisis Line: 847-249-4450

**Between Friends**

[WWW.BETWEENFRIENDSCHICAGO.ORG](http://WWW.BETWEENFRIENDSCHICAGO.ORG)

24 Hour Help Line

1-800-603-4357

**Center on Halsted (LGBT & STD Testing Services)**

[www.centeronhalsted.org](http://www.centeronhalsted.org)

3656 N. Halsted St Chicago, IL 60613

773-472-6469

**Connections for Abused Women and Their Children (CAWC)**

[www.cawc.org](http://www.cawc.org)

1116 N. Kedzie Ave Chicago, IL 60651

24-Hour Crisis Line: 773-278-4566

773-489-9081 (TTY)

**Life Span Center for Legal Services & Advocacy**

[www.life-span.org](http://www.life-span.org)

312-408-1210

**Mujeres Latinas En Accion**

<http://www.mujereslatinasenaccion.org/home/programs/sexual-assault-program>

2124 W 21st Place Chicago, IL 60608

773-890-7676 (office)

**Neopolitan Lighthouse**

[www.neopolitanlighthouse.org](http://www.neopolitanlighthouse.org)

24-Hour Crisis Line: 773-722-0005

773-638-0228 (TTY)

**Porchlight Counseling Services**

[www.porchlightcounseling.org](http://www.porchlightcounseling.org)

Multiple Chicagoland Counseling Locations

773-750-7077

**Rape Victim Advocates (Free Counseling and Legal Advocacy)**

[www.rapevictimadvocates.org](http://www.rapevictimadvocates.org)

180 N. Michigan Ave, Suite 600 Chicago, IL 60601

312-443-9603

**YWCA Metropolitan Chicago - Loop (Free Counseling and Legal Advocacy)**

[www.ywcachicago.org](http://www.ywcachicago.org)

1 North LaSalle St, Suite 1150 Chicago, IL 60602

312-372-6600