



# Title IX Grievance Procedure

Title IX Coordinator and/or Deputy Investigator Procedures for the resolution of Title IX reports.

## A. RESOLUTION OF TITLE IX REPORTS

The Title IX Coordinator and/or Deputy Investigator shall attempt to resolve any Title IX reports by informing, educating, or negotiating voluntary agreements in accordance with College policy and procedures. If no resolution can be reached that is acceptable to both parties and to the College, the Title IX Coordinator and/or Deputy Investigator may, if appropriate, institute an investigation as outlined below in *Section B*.

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 reports and/or third party reports. Steps taken to encourage resolution and agreements reached through early resolution efforts will be documented. Any form of sexual violence will not be resolved in an informal investigation, but will be processed as outlined in Section B.

## B. RESOLUTION OF TITLE IX FORMAL REPORTS

The Title IX Coordinator and/or Deputy Investigator shall investigate all written complaints of sexual violence or any reports that are not resolved informally as described in Section A, to determine reasonable cause. The Title IX Coordinator and/or Deputy Investigator may also determine that an investigation is warranted without a written 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.

Upon the initiation of a fact-finding investigation, the Title IX Coordinator and/or Deputy Investigator will send a letter of notification to both parties which:

1. advises the parties of the initiation of a fact-finding investigation;
2. includes the name of the complainant(s);
3. includes a full and complete written 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 Grievance Procedure*; and,
7. describes the need to schedule an appointment with the Title IX Coordinator and/or Deputy Investigator.

## C. FACT-FINDING INVESTIGATION

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/Title IX Regulations*. 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 complainant and the respondent via written letter.

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 both 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. For incidents

involving employees, the Title IX Coordinator will contact and consult the Office of Human Resources during the investigation. All investigations involving employees will be handled through the Office of Human Resources and pursuant to relevant collective bargaining agreements.

Upon request, the complainant 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.

At any time during the investigation, the Title IX Coordinator and/or Deputy Investigator may recommend that interim protections or remedies for the complainant, respondent, or witnesses be provided by appropriate College officials. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or making alternative working arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of the *MCC Policy/Title IX Regulations*. If a Title IX investigation concludes that a preponderance of the evidence exists which suggests that an **employee** engaged in sexual assault, domestic violence, dating violence, or stalking, the matter 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 could face discipline, up to and including, termination of employment. If the investigation concludes that a preponderance of the evidence exists which suggests a **student** engaged in sexual assault, domestic violence, dating violence, or stalking, the matter will be addressed through the Office of Student Services. Students who are found responsible for having committed such a violation may face disciplinary probation, suspension or dismissal from the College.

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/Title IX Regulations* 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 complainant, appropriate discipline for the respondent and a referral to disciplinary procedures as appropriate. 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.

In cases where there has been a finding that the *MCC Policy/Title IX Regulations* have been violated, the Title IX Coordinator and/or Deputy Investigator, in cooperation with the relevant College officials, will ensure that the appropriate remedies are provided to the complainant, regardless of the outcome of the disciplinary process. 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 complainant and the respondent shall be informed simultaneously in writing when the investigation is completed.

The complainant shall be informed if there were findings made that the *MCC Policy/Title IX Regulations* was or was not violated and of actions taken to resolve the complaint, if any, that are directly related to the complainant, such as an order that the respondent not contact the complainant. In accordance with College policies protecting individuals' privacy, the complainant may be notified generally that the matter has been referred for disciplinary action, but shall not be informed of the details of the disciplinary action.

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

Even if the Title IX Coordinator and/or Deputy Investigator does not make a finding of a violation of the *MCC Policy/Title IX Regulation*, 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.

#### **D. APPEAL PROCESS**

The Title IX Coordinator will notify both parties, simultaneously, that the Final Investigation Report is complete and available for review. Subject to the provisions below, the Investigative Summary (including the Investigative Findings and Determination) and recommended Corrective Action shall be final.

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

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.

In order to initiate an appeal, the Complainant or the Respondent(s) shall request a copy of the investigation report within five (5) days of receiving notice that the investigation has been completed. The Complainant or the Respondent(s) shall have ten (10) days from receipt of the investigation report to file an appeal with the Office of Student Services. The appeal shall state in writing the grounds for appeal and the specific reasons why the Investigative Findings, Determinations, and/or recommended Corrective Actions should be reversed or modified.

The Title IX Coordinator will ensure that both the Respondent and Complainant 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 Review Panel for further proceedings.

Where disciplinary action is recommended and no appeal is received, the Title IX Coordinator will impose the appropriate sanctions or, if Respondent is an employee, refer the matter to Human Resources.

## **E. Review Panel Hearing**

### Review Panel

The Title IX Coordinator will appoint a standing pool 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. The Title IX Coordinator will select three members 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 Review Panel will hold a hearing to determine: (1) whether the concerns stated by the contesting party raise substantial doubt about the thoroughness, fairness and/or impartiality of the investigation; and, if not, (2) whether there is sufficient evidence to support the Investigator's recommended finding(s) by a Preponderance of the Evidence.

### Representatives

Both the Complainant 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

Where either of the parties has contested the recommended finding(s) or responsibility, the members of the Review Panel will, at the conclusion of the Hearing, determine by majority vote: (1) whether the concern(s) stated by the contesting party raise substantial doubt about the thoroughness, fairness, and/or impartiality of the investigation; and, if not, (2) whether there is sufficient evidence to support the Investigator's recommended finding(s) by a Preponderance of the Evidence.

If the Review Panel 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 Review Panel 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.

Where disciplinary action is recommended and is upheld by the Review Panel, the Title IX Coordinator will impose the appropriate sanctions or, if Respondent is an employee, provide Human Resources with the necessary information to impose sanctions. Human Resources may consult with other administrators, as needed, including the Title IX Coordinator, pertinent administrators, and external professionals with experience adjudicating cases of prohibited conduct, to ensure that any disciplinary action is appropriate for the violation and consistent with disciplinary procedures and prior action for similar policy violations.