

# Title IX Sexual Harassment and Grievance Process



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# Title IX Sexual Harassment and Grievance Process

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## **PURPOSE:**

It is the policy of Michigan Career and Technical Institute (MCTI) to comply with Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex (including sexual harassment and sexual violence) in all MCTI’s educational programs and activities on or off the campus located in Plainwell, MI. MCTI will process all formal Title IX complaints while also prohibiting retaliation for asserting or otherwise participating in claims of sex discrimination.

This policy applies to complaints of sexual harassment, including sexual assault and sexual violence, carried out by employees, students, and third parties. MCTI will respond to reports or formal complaints of conduct prohibited under this policy. The policy’s goal is to stop discriminatory effects with measures designed to stop the prohibited conduct, prevent its recurrence, and remediate any adverse effects of such conduct on campus or MCTI related programs or activities.

MCTI will not deprive an individual of rights guaranteed under federal and state law, federal and state anti-discrimination provisions; or federal and state law prohibiting discrimination on the basis of sex when responding to any claim of Title IX Sexual Harassment.

## **Title IX Team:**

A Title IX Coordinator has been designated by MCTI and is responsible for coordinating MCTI’s efforts to comply with Title IX responsibilities while overseeing the response to reports of Title IX violations while identifying and addressing any pattern or systemic problems.

In addition to the Title IX Coordinator, MCTI has an Equity and Compliance Team which oversees and tracks investigations of complaints and recommends solutions for resolution and monitoring of efforts to comply with Title IX legislation, regulation, and case law.

All Equity and Compliance staff will assure the following standards:

- Will treat both parties and witnesses equitably by providing remedies designed to restore and preserve equal access to MCTI’s education programs and activities.
- Will not have any bias or conflict of interest
- Will be trained with materials used not relying on sex stereotypes and will promote impartial investigations and adjudications.
- Compliance team will ensure an objective evaluation of all relevant evidence including inculpatory and exculpatory evidence.
- Will assure that respondents are presumed not responsible, so that any finding of responsibility only comes at the conclusion of a grievance process.
- All ECT staff and Administration implementing the Grievance procedures will participate in training on the handling of complaints of sexual harassment, MCTI’s Title IX Policy and Grievance Procedures, and applicable confidentiality requirements.

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## Equity and Compliance Title IX Team (ECT):

Kasey Burlew, Admissions Coordinator, Title IX Deputy Coordinator, Investigator  
(269) 664-9223  
Burlewk@michigan.gov

Michaela Long, Vocational Rehabilitation Counselor, Investigator  
(269) 664-9267  
LongM8@michigan.gov

Felicia Love, Vocational Rehabilitation Counselor, Title IX Coordinator  
(269) 664-9584  
LoveF@michigan.gov

Amal Mansour, RN, Title IX Advocate  
(269) 664-9208  
MansourA2@michigan.gov

Amanda Matthews, Vocational Rehabilitation Counselor, Investigator  
(269) 664-9573  
MatthewsA6@michigan.gov

Sen Toda, Vocational Rehabilitation Counselor, Title IX Deputy Coordinator, Investigator  
(269) 664-9229  
TodaS4@michigan.gov

Sheila Wright, Vocational Rehabilitation Counselor, Investigator  
(269) 664-9219  
WrightS2@michigan.gov

## Administration Team:

Jennifer Zuniga, MCTI Director, Hearing Decision Maker  
(269) 664-9260  
ZunigaJ@michigan.gov

Karen Pohja, Manager of Career and Technical Education  
(269) 664-9220  
PohjaK@michigan.gov

MCTI provides the contact information of the Title IX Coordinator and ECT team to students, staff, applicants for admission and all labor unions.

## Terminology

## Title IX Sexual Harassment and Grievance Process

**Sexual Harassment** is conduct based on sex that meets one or more of the following descriptions:

1. A school employee conditioning an educational benefit or school service on an individual's participation in an unwelcome sexual conduct known as Quid Pro Quo harassment. This is offering a benefit in exchange for unwelcome sexual conduct. This is an abuse committed by a school employee's authority.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to MCTI'S education programs or activities
3. Sexual assault, dating violence, domestic violence, or stalking based on sex causing fear for safety or causing substantial emotional distress. The terms are defined under other Federal laws called the Clery Act and the Violence Against Women Act and based on the lack of consent.

Sexual harassment may be committed by a school employee or student regardless of the person's race, sexual orientation, disability status or gender identity might be a victim or perpetrator of sexual harassment. The final regulation protects everyone from Sexual Harassment under Title IX. Sexual harassment might consist of verbal, physical or other types of conduct that targets a person based on sex that a person finds unwelcome.

Sexual harassment is unwelcome conduct of a sexual nature, such as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment and refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g. due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Gender-based harassment is another form of sex-based harassment and refers to unwelcome conduct based on an individual's actual or perceived sex, including harassment based on gender identity or nonconformity with sex stereotypes, and not necessarily involving conduct of a sexual nature.

The following definitions clarify key terminology as used in this policy.

**Complainant** refers to the individual(s) who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.

**Formal Complaint** refers to a document filed by a complainant (meaning a document or electronic submission such as by electronic mail that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the individual filing the formal complaint alleging Title IX Sexual Harassment against a respondent and requesting that MCTI investigate the allegation of Title IX Sexual Harassment.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity at MCTI. A formal complaint may be filed with the Title IX Coordinators in person, by mail, or by electronic mail, by using the contact information provided in this policy, and by any additional methods identified in this policy.

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A **Formal complaint** may also refer to a document signed by MCTI's Title IX Coordinator alleging Title IX Sexual Harassment against a respondent. Where MCTI's Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party.

**Official with Authority** refers to individuals who have authority to institute corrective measures on behalf of MCTI.

**Party or parties** refer to the complainant(s) and the respondent(s).

**Report** refers to information brought to the attention of an Official with Authority alleging conduct prohibited under this policy; a report is not considered to be a formal complaint. A party may bring a report and then subsequently file a formal complaint.

**Respondent Party or parties** refers to the individual(s) who has been alleged to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.

**Third party** refers to any individual who is not a MCTI student, a staff member, vendor, alumni, or local resident.

**Witness** refers to any individual who shares information relating to an allegation of prohibited conduct under this policy.

### Process Overview following reported complaints

Any MCTI community member who believes s/he has been subjected to harassment prohibited by Title IX, is encouraged to bring the concern directly to the attention of the Title IX Coordinator, a staff member involved on the Equity and Compliance team or an Administrator as soon as possible in order to facilitate a more accurate and timely investigation. The Title IX Coordinator will be notified of all complaints and respond to immediate health and safety concerns. All complainants will be provided Supportive Measures. A determination will be made if there is a policy violation within the scope of the MCTI Sexual Discrimination and Sexual Harassment policy. An informal resolution may proceed, or the complainant or Title IX Coordinator may proceed with a formal grievance process.

When MCTI learns that someone is alleged to be a victim of sexual harassment, MCTI will address as follows:

- Promptly contact the person and inform them of their right to request supportive measures, whether that person decides to file a formal complaint, or not.
- Consider the alleged victim's wishes and will offer appropriate supportive measures under the circumstances.
- Explain to complainants that they have an option and process for filing a formal complaint and review the process to complete the complaint form regarding sexual harassment.
- Will not pressure an individual into filing a formal complaint, or into participating in a grievance process.
- Provide a copy of the Sexual Harassment and Non-Discrimination Policy to the complainant.
- Investigate every formal complaint.

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- The outcome will be determined by the MCTI Decision-Maker

### Options for Complainants, Respondents, and Other Reporting Individuals

A complainant, respondent, or witness has many options, including counseling and support services. Information regarding contact information for local law enforcement as well as contact information for Confidential Resources that are available to provide support to parties and witnesses.

After consulting the Title IX Coordinator or Deputy Coordinator, a complainant may:

- Receive supportive measures from the Title IX Coordinators.
- File a formal complaint with the Title IX Coordinator, thereby invoking the MCTI internal grievance process.
- Contact Fire and Safety for assistance in filing a criminal complaint and preserving physical evidence
- Contact local law enforcement to file a criminal complaint. At the complainant's request, MCTI will assist the complainant in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue a criminal process.

An individual may pursue some or all of these steps at the same time. When initiating any of the above, an individual does not need to know whether they wish to request any particular course of action, nor how to label what happened. Before or during this decision-making process, complainants and other reporting individuals are encouraged to consult with the Title IX Coordinators and an Advisor.

### MCTI Supportive Measures

Supportive measures are designed to restore or preserve equal access to the recipient's (MCTI) education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, reasonably available and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. The supportive measures provided to the parties will be kept confidential, to the extent possible.

#### Supportive Measures for Staff and Students

- Individual counseling offered to students at no charge, on campus
- Employee Assistance Program for MCTI staff
- Emotional Support Animals with proper supportive documentation from treating therapist
- Roommate Agreements
- Medical Leave
- Occupational Therapy Services
- Nursing Services

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- Yoga Class
- Alter dorm assignment.
- Alter work arrangements for MCTI staff and student employees.
- Escort to classes
- Safety planning
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course- or program-related adjustments
- Class schedule modifications, withdrawals, or leaves of absence.

### Grievance Procedures for Title IX Sexual Harassment

MCTI is committed to providing a prompt and impartial investigation and adjudication of all formal complaints alleging violations of this policy. During the grievance process, both parties (complainant and respondent) have equal rights to participate.

#### **Privacy and Confidentiality:**

- All activities under these grievance procedures shall be conducted with due regard for any legitimate privacy and reputational interests of those involved. It is expected that any materials and information prepared or acquired under these grievance procedures will be shared only with those who have a legitimate need to know.
- MCTI will adopt this written grievance process, and abide by the procedures and will never use or attempt to use questions or evidence that is protected by a legal recognized privilege, such as the attorney-client privilege or the doctor-patient privilege.
- MCTI cannot unilaterally access or consider a party's records, if those records are made or maintained by a physician, psychiatrist, or other recognized professional and made for the purpose of providing treatment to the party. The records can only be accessed with a party's voluntary written consent.
- No questions will be reviewed during the grievance process about the Complainant's prior sexual behavior. Questions will not be reviewed with the respondent accused of sexual harassment, even in cases where the respondent already possesses evidence about sexual history with the Complainant.

#### **Where to report Sexual Harassment:**

- Students and staff are recommended to contact the Title IX Coordinator, Felicia Love or Deputy Coordinators, Kasey Burlew or Sen Toda to report Sexual Harassment.
- In addition to the Title IX Coordinators, anyone within MCTI who has authority to institute corrective measures on behalf of the school including the Title IX Coordinators, any member of the Title IX Equity and Compliance Team, MCTI Administrators, Vocational Counselors, Instructors, Health Services, Dorm, Leisure and Maintenance staff are considered responsible employees/mandated reporters. As such, they are required to report to the Title IX Coordinator immediately if they become aware of or reasonably suspect any incidents of sexual misconduct. The report is submitted for the purpose of obtaining a prompt and equitable resolution.
- Employees designated as confidential resources including Health Services Counselors, Nurses and Therapist.



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## **Response to Sexual Harassment Notifications**

When MCTI learns that someone is alleged to be a victim of sexual harassment, MCTI will address as follows:

- Promptly contact the person to discuss supportive measures, whether that person decides to file a formal complaint, or not.
- Consider that person's wishes and will offer appropriate supportive measures under the circumstances.
- Explain to complainants that they have an option and process for filing a formal complaint and explain the process.
- Never pressure an individual into filing a formal complaint, or into participating in a grievance process.

## **Emergency Removals:**

- MCTI can remove a respondent from MCTI's education programs or activities on an emergency basis if the respondent poses an immediate threat to anyone's physical health or safety.
- If the respondent is a school employee, the final regulations don't prevent a school from placing that employee on administrative leave during the investigation.

## **Mandatory and Discretionary Dismissal of Complaints:**

MCTI must dismiss a complaint:

1. Does not describe conduct that does not meet the definition of sexual harassment
2. Alleges sex harassment that did not occur in MCTI's education program or activity
3. If the complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or some of its allegations
4. If the respondent is no longer enrolled or employed at MCTI
5. If specific circumstances prevent MCTI from gathering evidence sufficient to reach a determination about the allegations.

MCTI may still address these complaints under the Code of Conduct and other Misconduct policies even if they do not fall under Title IX.

If MCTI dismisses a formal complaint, or any allegations in it, MCTI will promptly send written notice of the dismissal and the reason to the parties.

Both parties will be notified of their right to appeal a dismissal decision.

## **Informal Resolution:**

In many instances, advice or informal discussion may be useful in resolving concerns about allegations of discrimination prohibited by Title IX. Complainants who wish to resolve their concerns informally should bring them to the attention of the Title IX Coordinator. In working to resolve the matter, the Title IX Coordinator ordinarily will interview the complainant and, as appropriate, others who may have knowledge of the facts underlying the grievance. At any

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point, including while the informal process is ongoing or afterwards, the complainant may elect to end the informal process in favor of filing a formal grievance.

Informal resolution must be voluntary on the part of both parties. A written consent of informal resolution from both the complainant and respondent will be required.

While MCTI welcomes informal resolution of grievances when appropriate, it will not use mediation between a complainant and respondent or any other informal resolution mechanism to resolve grievances pertaining to non-consensual sexual contact.

The Title IX Coordinator welcomes an informal presentation of such allegations, and is available to address concerns through counseling, advice, and informal resolution, the Title IX Coordinator is fully prepared to receive and address such allegations through formal grievance procedures. While the Title IX Coordinator welcomes an informal presentation of such allegations, and is available to address concerns through counseling, advice, and informal resolution, the Title IX Coordinator is fully prepared to receive and address such allegations through formal grievance procedures.

### **Formal Complaints**

- A formal complaint is an official document alleging sexual harassment.
- Is filed by the student or their parent or legal guardian in some cases. .
- In cases where an alleged victim doesn't file a formal complaint, a Title IX Coordinator might initiate grievance procedures where discipline is appropriate

### **MCTI Title IX Grievance Process:**

Once a decision has been determined to open an investigation that may lead to disciplinary action against a respondent, a written notice will be provided to the respondent stating the allegations constituting a potential violation of MCTI's sexual discrimination and harassment policy. The notice will include sufficient details to prepare a response prior to any initial interview including, but not limited to:

- a description of the prohibited conduct allegedly constituting the potential violation,
- MCTI's policy/specific section of the code of conduct allegedly violated,
- the date and the location of the incident,
- the identity of the individuals involved.

The respondent will be given at least 10 days to prepare for an initial interview. All parties involved in an investigation will be given at least 10 days to prepare for each interview throughout the investigation and will receive written notice in advance of each interview.

Potential remedies and sanctions, which may be applied to the Complainant and/or the Respondent: Upon receipt of a report or concern, MCTI may impose reasonable and appropriate interim supportive measures, some of which could become permanent upon resolution of the complaint, to protect the parties involved.

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MCTI will make reasonable efforts to communicate with the parties to ensure that all safety concerns, both emotional and physical well-being, are being addressed. Such measures may be imposed regardless of whether formal disciplinary action is sought by the complainant or MCTI and will be implemented at the discretion of MCTI.

### **Notice of Investigation:**

Following the receipt and review of the formal complaint by the Title IX Coordinator, and it being determined that the matter properly falls under this Title IX Sexual Harassment policy, the parties will be informed in writing of the initiation of the investigation. The written information shall include:

- The identities of the parties, if known.
- A concise summary of the alleged conduct at issue (including when and where it occurred, if known).
- Notice of the allegations potentially constituting Title IX Sexual Harassment.
- A statement that the respondent is presumed not responsible and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement informing the parties that they may have an adviser of their choice, who may be, but is not required to be, an attorney.
- A statement informing the parties that they may request to inspect and review evidence.
- A statement informing the parties that knowingly making false statements or knowingly submitting false information during the grievance process may constitute a violation of University policy.
- Information regarding the applicable grievance procedures, including the informal resolution process.

If, during the investigation, additional information is disclosed that may also constitute prohibited conduct under this policy, the respondent and complainant will be informed in writing that such additional information will be included in the grievance process.

### **Collection of Evidence:**

The investigators will collect information from each party. While the complainant and the respondent are not restricted from gathering and presenting relevant evidence, the investigators are responsible for gathering relevant evidence to the extent reasonably possible. However, each party will be given an equal opportunity to suggest witnesses; provide other relevant information, such as documents, communications, photographs, and other evidence; and suggest questions to be posed to the other party or witnesses. Parties and witnesses are expected to provide all available relevant evidence to the investigators during the investigation. If a party or witness fails to provide available relevant evidence during the investigation, such evidence may, at the discretion of the Decision-Maker Hearing Panelist, be excluded from consideration at the hearing. While parties are not restricted from presenting information attesting to the parties' character, such evidence generally is not considered relevant.

The investigators will provide to a party written notice of the date, time, location, participants, and purpose of all investigative interviews to which they are invited or expected, with sufficient time (generally no less than three (3) business days, absent exigent circumstances) for the party to prepare to participate.

Parties will be interviewed separately and will be interviewed by the panel of investigators. The investigators will interview witnesses as necessary and may, at their discretion, delegate

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witness interviews to two investigators. The investigators will record all interviews or notes of the interviews will be taken by the investigators. Any other recording of interviews is prohibited, and violations may result in discipline.

In general, a party's medical and counseling records are confidential. The investigators will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the investigators obtain that party's voluntary, written consent to do so.

The investigators will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g., attorney-client, doctor-patient), unless the individual holding such privilege has waived the privilege.

### **Investigation Guidelines:**

In the case of a formal grievance, MCTI will initiate an investigation. MCTI will designate an investigator of its choosing from the Equity and Compliance team who has participated in specific training related to investigating allegations of sexual discrimination and misconduct. MCTI will provide annual training for all investigators, and any investigator chosen to conduct the investigation will be impartial and free of any conflict of interest.

The investigator(s) will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the complainant, the respondent, and any witnesses. Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. During the investigation and adjudication of the Title IX complaint, any prior relationship history of the complainant with anyone other than the alleged perpetrator will not be considered.

As part of the investigation, MCTI will provide an opportunity for the parties to present statements, witnesses, cross examination of witnesses (though parties will not be permitted to personally question or cross-examine each other), and other evidence. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The investigation is designed to:

1. Be respectful of the needs and rights of individuals involved.
2. Proceed as promptly as possible per the time frame noted in this policy.
3. Permit a complainant and a respondent to have the same opportunity to have an appropriate support person or advisor present at any interview or hearing, in a manner consistent with the governing procedures. Both parties shall also have similar and timely access to information used at hearings.
4. Include notifying the complainant of his/her right to proceed with a criminal investigation and a Title IX complaint simultaneously.
5. Be conducted in accordance with applicable due process standards and privacy laws.
6. Provide notice to both the complainant and respondent (through written letter or email) of the outcome in a timely manner, as permitted by applicable privacy law.
7. Be based on a preponderance of evidence standard.

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### **Investigation Outcome:**

During the investigation, the complainant and the respondent will be kept informed at regular intervals of the status of the investigation.

At the conclusion of the investigation, the investigator will prepare a written report which will be provided to the MCTI Director and Title IX Coordinator. At a minimum, the report will:

1. Detail the investigative steps taken by the investigator
2. Provide summaries of testimony for all witnesses interviewed.
3. Include copies of all documents reviewed.
4. Set forth the analysis of the investigator supporting the conclusions drawn.
5. If the complaint is substantiated by the investigation, provide recommendations (with support of legal counsel, as needed) as to the consequences and actions to be taken, which may involve sanctions up to and including termination and/or expulsion for the accused.

No student will have his/her educational status adversely affected as a result of making a complaint. Also, no employee will have his/her employment adversely affected as a result of making a complaint.

### **Adjudication Process:**

MCTI is required to hold a live hearing and will adhere to the following guidelines established by the new Title IX Regulations:

1. The party's advisors must be allowed to cross-examine other parties and witnesses.
2. No party can ever be allowed to personally question or cross-examine anyone.
3. If any party request it, the entire hearing must be held with the parties located in separate rooms, with technology enabling everyone to see and hear each other.
4. Cross-examination will be utilized and simply means that a party's advisor asks questions that might challenge the other party's denials, or allegations.
5. Cross-examination questions must be relevant, and decision-makers must decide if a question is relevant before the party or witness has to answer it.
6. A complainant's privacy is protected by only allowing questions or evidence about prior sexual history in tow circumstances.
7. No party is EVER allowed to personally cross-examine anyone.
8. MCTI will provide a party with an advisor of the school's choosing free of charge, solely for the purpose of conducting cross-examination on that party's behalf. The selected advisor is not required to be a lawyer.
9. By hearing each party's version of events and hearing each party answer questions about their version of events, the neutral, unbiased decision-maker will reach a determination regarding responsibility. The decision maker will decide whether it meets the school's standard of evidence for sexual harassment allegations.

Determination will be noted in writing and will include the policy violated, procedural steps taken, findings of fact section, conclusion of the facts, statement and rationale, disciplinary sanctions

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imposed on the respondent and if remedies were provided to the complainant. Statement noting how remedies will restore or preserve equal access. Statement of the Right to appeal the initial determination regarding responsibility.

### **Participation in Hearings:**

If a party or witness chooses not to appear at the live hearing, or not to answer cross-examination questions, the decision maker excludes that party's or witness statements and evaluates any evidence that doesn't involve those statements.

### **Recordings:**

MCTI will create an audio, audiovisual recording, or transcript of any live hearing and will make it available to the parties for review.

### **Time Frame for Resolution:**

MCTI seeks to resolve all reports within 60 days of the initial report. All time frames expressed in this policy are meant to be guidelines rather than rigid requirements. Extenuating circumstances may arise that require the extension of time frames, including extension beyond 60 days. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, any intervening school break or vacation, or other unforeseen circumstances.

In general, a complainant and respondent can expect that the process will proceed according to the time frames provided in this policy. In the event that the investigation and resolution exceed this time frame, MCTI will notify all parties of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, MCTI may agree to defer its fact-gathering until after the evidence gathering portion of a criminal investigation. MCTI will, nevertheless, communicate with the complainant and with the respondent as appropriate regarding Title IX rights, procedural options, and the implementation of interim measures to ensure safety and well-being. MCTI will promptly resume its fact-gathering as soon as law enforcement has completed its evidence gathering.

## **Appeals**

Either party may appeal the final outcome in writing to the appointed "Appeals Officer." Both parties have equal opportunity to submit a written statement supporting or challenging the outcome. The appeal will be conducted in an impartial manner by the impartial Appeal Officer. The appeal must be filed in writing (which can include email) within five (5) business days of receiving the written decision makers outcome or from the Title IX Coordinator's decision to not proceed with a formal grievance process.

### **Grounds for an Appeal:**

1. A procedural irregularity affected the outcome of the matter

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2. New evidence has been discovered that was not reasonably available at the time of the determination on responsibility or dismissal.
3. A conflict of interest on the part of a Title IX Coordinator, an investigator who compiled evidence, or a decision maker, and the conflict of interest affected the outcome

The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal.

Dissatisfaction with the outcome of the hearing is not grounds for appeal. The only grounds for appeal are:

- A procedural or substantive error occurred that significantly affected the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures, etc.).
- New evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction (a summary of this new evidence and its potential impact must be included).

The receipt of the appeal will be acknowledged in writing (which can include email). Each party will be given the opportunity to respond in writing to the other party's appeal. Any response by the opposing party must be submitted to the designated Appeal Officer within five (5) business days from receipt of the appeal. The appeals documents from each party will be considered together in one appeal review process. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The designated Appeals Officer shall first consider whether the appeal was filed in a timely manner and, if so, whether the appeal is properly framed based on the two grounds. If the designated Appeals Officer determines that the appeal is not properly framed, the appeal will be denied.

Sanctions imposed are implemented immediately unless the Director of MCTI, or his designee, determine that implementation may not occur due to extraordinary circumstances, pending the outcome of the appeal.

The designated Appeals Officer will render a written decision on the appeal to the complainant and respondent within fifteen (15) business days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

In the event that the investigation and resolution exceed this time frame, or any of the other time frames included in this procedure, MCTI will notify all parties of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

### **Retaliation:**

Retaliation against any person or group who makes a complaint, cooperates with an investigation, or participates in a grievance procedure is a violation of MCTI policy. Retaliation should be reported promptly to the Title IX Coordinator, Equity and Compliance Team members or Administrators for investigation, which may result in disciplinary action independent of any sanction or interim measures imposed in response to the underlying allegations of discrimination and/or harassment.

At the conclusion of the investigation and after appropriate corrective action has been determined, the complainant and the respondent will simultaneously receive a written copy of

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the outcome of the investigation including general findings and corrective action that may be taken.

### **Conflicts of Interest:**

These procedures will be administered in a manner that eliminates any conflict of interest (real or perceived) by individuals handling the procedures.

Anyone who feels there is any conflict of interest related to a Title IX proceeding should report the conflict to the Title IX Coordinator, Equity and Compliance Member or a MCTI Administrator if they feel the conflict of interest. The final decision as to whether to remove the individual is the prerogative of the Director of MCTI. When considering whether to remove an individual from the proceedings, the Director will consider:

- The nature of the relationship between the individual and the situation (or those involved)
- Whether that individual could be reasonably expected to render a fair and impartial analysis regardless of the relationship.

### **Policy Notices and Distribution of policy to students:**

At a minimum MCTI will make available to each student information about its Notice of Nondiscrimination and Title IX Grievance Procedures and shall additionally post a copy of its Notice of Nondiscrimination at appropriate locations on campus at all times. MCTI may distribute its Notice of Nondiscrimination and Grievance Procedures provided all students are directly notified of how to access this information by an exact address, and that they may request a paper copy.

### **Distribution of policy to employees:**

MCTI will make available to all employees a copy of its Notice of Sexual Nondiscrimination and Title IX Grievance Procedures.

### **Record Retention:**

MCTI will maintain for a period of seven years records of the following:

- Each Title IX Sexual Harassment grievance process conducted under this policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript from a hearing, any disciplinary sanction imposed on the respondent, and remedies provided to the complainant designed to restore or preserve access to MCTI's education program or activity;
- Any appeal and the result therefrom.
- Any informal resolution and the result therefrom; and
- All materials used to train MCTI Title IX Coordinators, Investigators, Hearing Decision-Maker Panel members, Appeal Panel members, and any individual who facilitates the informal resolution process with regard to Title IX Sexual Harassment;
- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX Sexual Harassment. In each instance, MCTI will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to MCTI's educational and working program or activity. If MCTI does not provide a



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complainant with supportive measures, then MCTI will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

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