

Minneapolis College of Art and Design

Sexual Misconduct Policy

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MCAD Sexual Misconduct Policy

I.	Policy Statement.....	1
II.	Title IX Notice of Nondiscrimination.....	1
III.	Title IX Coordinator and Team.....	2
IV.	Definitions.....	2
	A. Definitions of Prohibited Conduct.....	2
	B. Definitions of Consent, Coercion, and Incapacitation.....	5
	C. Definitions of Other Policy Terms.....	6
V.	Assistance Following an Incident of Sexual Misconduct.....	7
	A. Information about Support Resources.....	7
	B. Crime Victims’ Rights.....	7
VI.	Confidentiality.....	7
VII.	Reporting Sexual Misconduct.....	8
	A. Reporting to the College.....	8
	B. Amnesty for Other Policy Violations.....	9
	C. Title IX Coordinator’s Initial Review and Response to Reports to the College.....	10
	D. Reporting to Law Enforcement.....	10
VIII.	Sexual Misconduct Complaint Resolution Process.....	10
	A. Complaint and Notice to Respondent.....	11
	B. Formal Resolution Process.....	11
	C. Possible Sanctions and Remedies.....	12
IX.	Rights and Obligations in the Complaint Resolution Process and General Provisions.....	18
	A. Rights of the Complainant and Respondent.....	18
	B. Advisors in Complaints of Sexual Assault, Domestic Violence, Dating Violence or Stalking.....	20
	C. Interim Actions and Protective Measures.....	21
X.	Complaints of Retaliation, Violation of Interim Measures, or Violation of Sanctions.....	23
XI.	Alternative Procedures.....	23
XII.	Education and Training.....	23
	APPENDIX A TO MCAD SEXUAL MISCONDUCT POLICY RESPONSE TO SEXUAL VIOLENCE AND RESOURCES.....	1
	APPENDIX B TO MCAD SEXUAL MISCONDUCT POLICY Crime Victims Bill of Rights.....	7

MCAD Sexual Misconduct Policy

I. Policy Statement

The Minneapolis College of Art and Design (the “**College**” or “**MCAD**”) is committed to fostering an atmosphere of mutual respect and to providing safe and nondiscriminatory learning and working environments. As such, the College prohibits and will not tolerate sexual misconduct by or against any member of the College community. Anyone who believes that this policy has been violated is encouraged to bring their concerns to the College’s attention so that concerns can be addressed. The College prohibits retaliation for good faith reports or for participating in the College’s processes set forth in this policy. The College is committed to keeping reports and proceedings conducted under this policy as confidential as possible, consistent with its need to look into reports and applicable law.

All College community members are required to follow this policy and are protected by this policy. This policy applies to sexual misconduct committed by or against a College community member, that (1) occurs on campus or other College property, (2) occurs at College sanctioned events or programs that take place off campus, such as study abroad and internships, and (3) occurs off campus and outside the context of a College sanctioned event or program, but that the College determines may (i) have continuing adverse effects on campus, College property, or in a College program or activity, (ii) substantially and unreasonably interfere with a community member’s employment, education, or environment on campus, College property, or in a College program or activity, or (iii) create a hostile environment for community members on campus, College property, or in a College program or activity.

This policy is distributed annually to all students and employees of the College and is posted outside of the Office of Student Affairs and Office of Human Resources. This policy also will be provided by the College to any student, employee or other individual who reports to the College that they have been a victim of sexual misconduct in potential violation of this policy.

II. Title IX Notice of Nondiscrimination

It is the College’s policy to comply with Title IX of the Education Amendments of 1972 (“**Title IX**”). Title IX is a federal law which prohibits sex discrimination and states that: “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.”

In accordance with Title IX, this policy addresses the College’s prohibition of the following forms of sex discrimination, which are collectively referred to in this policy as “**sexual misconduct**”: sexual harassment, sexual assault, domestic violence, dating violence, and stalking. Allegations of sex discrimination that do not involve sexual misconduct will be handled in accordance with the College’s Nondiscrimination Policy.

Inquiries or complaints about Title IX or any form of sex discrimination or sexual misconduct may be directed to the College’s Title IX Coordinator:

Jen Zuccola
Title IX Coordinator
Vice President of Student Affairs
Morrison Bldg, M104
Minneapolis, MN 55404
Office Phone: 612-874-3626
Email: jzuccola@mcad.edu

III. Title IX Coordinator and Team

MCAD has designated the following individuals to oversee and ensure its compliance with Title IX:

Jen Zuccola
Title IX Coordinator
Dean of Student Affairs
Morrison Bldg, M104
Minneapolis, MN 55404
Office Phone: 612-874-3626
Email: jzuccola@mcad.edu

Autumn Amadou-Blegen
Deputy Title IX Coordinator
Director of Human Resources
Morrison Bldg, M18
Minneapolis, MN 55404
Office Phone: 612-874-3798
Email: aamodoublegen@mcad.edu

The Deputy Title IX Coordinator assists the Title IX Coordinator with the development, implementation and monitoring of the College's meaningful efforts to comply with Title IX by consulting with and supporting the Title IX Coordinator and serving, from time to time, as the Coordinator's designee. The Title IX Deputy Coordinator may be called upon to investigate or adjudicate complaints of sexual misconduct, decide appeals, and/or facilitate informal resolutions to complaints.

The Title IX Coordinator may appoint a designee to fulfill the functions of the Coordinator under this policy. When this policy refers to actions of the Title IX Coordinator, these actions may be fulfilled by the Title IX Coordinator or the Title IX Coordinator's designee.

The College will train faculty and/or staff to serve as Title IX Coordinator designees, investigators, adjudicators, or appeal officials in the complaint resolution process. These faculty and staff will be members of the College's Title IX Team, along with the Title IX Coordinator and Deputy Title IX Coordinator. The College may also use trained outside parties to be a Title IX Coordinator designee, investigator, adjudicator, or appeal official in the complaint resolution process.

IV. Definitions

A. Definitions of Prohibited Conduct

The definitions below explain the conduct prohibited by this policy.

1. Dating Violence

Under Federal Law "**Dating Violence**" means:

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. This violence is also called domestic abuse and may be subject to criminal prosecution under Minnesota law. Under Minnesota law, "domestic abuse" includes, among other things:

1. Physical harm, bodily injury or assault;
2. The infliction of fear of imminent physical harm, bodily injury, or assault;
3. Terroristic threats;
4. Criminal sexual conduct, if committed against a family or household member by a family or household member.

Individuals encompassed in this definition include, but are not limited to:

1. Persons involved in a significant romantic or sexual relationship;

2. Spouses or former spouses, parents, children, and other persons related by blood;
3. Persons who are presently residing together or who have resided together in the past;
4. Persons who have a child in common.

Under Minnesota Law **Dating Violence** means:

1. An act of domestic abuse, which is defined as an act of physical harm, bodily injury, or assault;
2. The infliction of fear of imminent physical harm, bodily injury, or assault;
3. Terroristic threats, criminal sexual conduct, or interference with an emergency call that is committed against a family or household member by a family or household member.

Family or household member is defined as follows:

1. Spouses and former spouses;
2. Parents and children;
3. Persons related by blood;
4. Persons who are presently residing together or who have resided together in the past;
5. Persons who have a child in common regardless of whether they have been married or have lived together at any time;
6. A man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
7. Persons involved in a significant romantic or sexual relationship.

2.Domestic Violence

Under Federal Law “**Domestic Violence**” means:

A felony or misdemeanor crime of violence committed

1. By a current or former spouse or intimate partner of the victim;
2. By a person with whom the victim shares a child in common;
3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
4. 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;
5. 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.

Under Minnesota Law “**Domestic Violence**” means:

1. An act of domestic abuse which is an act of physical harm, bodily injury, or assault;
2. The infliction of fear of imminent physical harm, bodily injury, or assault;
3. Terroristic threats, criminal sexual conduct, or interference with an emergency call that is committed against a family or household member by a family or household member.

Family or household member is defined as follows:

1. Spouses and former spouses;
2. Parents and children;

3. Persons related by blood;
4. Persons who are presently residing together or who have resided together in the past;
5. Persons who have a child in common regardless of whether they have been married or have lived together at any time;
6. A man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and persons involved in a significant romantic or sexual relationship.

3. Sexual Assault

“**Sexual assault**” means an actual, attempted, or threatened sexual contact with another person without that person’s consent. Sexual assault may include physical contact with a person’s genital area, other bodily orifices (anal, oral or vaginal) or with a person’s buttocks or breasts, either over or under clothing, if the contact is done without consent. Sexual assault can be committed by persons of the same sex or opposite sex, and could involve a stranger, acquaintance or date. Child (under 18) sexual abuse and incest is also included in this Policy. Sexual assault is a criminal act that can be prosecuted under Minnesota law.

4. Sexual Harassment

“**Sexual harassment**” is a violation of Title VII of the Civil Rights Act of 1964 and the Minnesota Human Rights Act.

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct or communication is made either explicitly or implicitly a term or condition of employment or academic status;
2. Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting that individual’s employment or academic endeavors;
3. That conduct or communication has the purpose or effect of substantially interfering with an individual’s employment, academic endeavors or professional performance, or creates an intimidating, hostile or offensive employment or educational environment.

Sexual harassment is a specific form of sex discrimination. While sexual harassment often takes place in a situation of power differential between persons involved, sexual harassment may occur between persons of the same status (i.e., student-student, faculty-faculty, staff-staff). Sexual harassment may also range in severity. Prohibited sexual harassment includes acts of sexual violence.

Students, faculty and staff should understand that consensual sexual relationships might become a violation of this Policy, particularly those relationships between individuals of unequal status. The validity of the consent involved in such a relationship can easily come into question. While the College cannot forbid such relationships, it deems them to be very unwise.

Sexual harassment may include, but is not limited to:

1. Frequent verbal insults, harassment or abuse;
2. Subtle pressure for sexual activity;
3. Frequent inappropriate touching;
4. Intentional unwelcome physical conduct with another’s body, including persistent unwelcome sexual propositions or inappropriate behavior such as touching, caressing or kissing, whether with or without threat of punishment for noncompliance and without promise of reward for compliance;

5. Persistently requesting unwelcome sexual favors, whether or not accompanied by implied or overt threats concerning an individual's employment or educational status;
6. Any sexually motivated unwelcome touching.

5. Sexual Misconduct

“**Sexual misconduct**” means the following forms of sex discrimination and other misconduct: sexual harassment, sexual assault, sexual exploitation, domestic violence, dating violence, and stalking. Sexual misconduct encompasses all instances of dating violence, domestic violence, and stalking (as those terms are defined in this policy), regardless of whether there is a sexual component to the behavior. Sexual misconduct can take place between individuals in different power positions or between peers.

6. Stalking

Under Federal law “**Stalking**” means:

As a course of conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim.

Under Minnesota law “**Stalking**” means:

Conduct which the actor knows or has reason to know would cause the complainant under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and causes this reaction on the part of the complainant. Stalking does not depend on the relationship between the actor and the complainant. Stalking also does not require a specific intent to cause the complainant harm.

B. Definitions of Consent, Coercion, and Incapacitation

1. Consent

“**Consent**” Under Federal Law Consent means:

Words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the victim or that the victim failed to resist a particular sexual act. A person who is mentally incapacitated or physically helpless cannot consent to a sexual act.

The use of alcohol or drugs by either person will not diminish the actor's responsibility for sexual violence under this Policy.

Under Minnesota Law Consent means:

Words or overt actions by a person indicating a freely-given and present agreement to perform a certain sexual act with the actor. Minnesota law expressly states that a pre-existing relationship or the fact that the complainant did not resist is not consent.

2. Coercion

“**Coercion**” means to force one to act based on fear of harm to self or others. Means coercion may include, but are not limited to, pressure, threats, emotional intimidation, or the use of physical force.

3. Incapacitation

“**Incapacitation**” is the physical and/or mental inability to make informed, rational judgments and decisions. States of incapacitation include sleep and blackouts. Where alcohol or other substances are involved, incapacitation is determined by how the substance impacts a person’s decision-making capacity, awareness of consequences, and ability to make informed judgments.

In evaluating whether a person was incapacitated for purposes of evaluating effective consent, MCAD considers two questions:

- (1) Did the person initiating sexual activity know that their partner was incapacitated? and if not,
- (2) Should a sober, reasonable person in the same situation have known that their partner was incapacitated?

If the answer to either of these questions is “yes,” effective consent was absent.

For purposes of this Policy, incapacitation is a state beyond drunkenness or intoxication. A person is not incapacitated merely because they have been drinking or using drugs. Because the impact of alcohol and other drugs varies from person to person, one should be cautious before engaging in sexual contact or intercourse when either party has been drinking alcohol or using other drugs.

C. Definitions of Other Policy Terms

1. Advisor

“**Advisor**” refers to the person whom complainant or respondent selects to serve as an advisor to that individual during the complaint resolution process conducted under this policy in connection with a complaint of sexual assault, domestic violence, dating violence or stalking.

2. Complaint

“**Complaint**” refers to a formal allegation of an alleged policy violation provided to the Title IX Coordinator by the complainant that begins a complaint resolution process as set forth in the “Complaint Resolution Process” section of this policy.

3. Complainant

“**Complainant**” refers to any person(s) who initiates a complaint resolution process with the College under this policy regarding conduct that is alleged to have violated this policy. In addition, the term “complainant” may also be used to refer generally to a person alleged to have been subjected to conduct that violates this policy, whether or not that person has filed a complaint.

4. Respondent

“**Respondent**” refers to the person(s) named as the respondent in a complaint under this policy.

V. Assistance Following an Incident of Sexual Misconduct

A. Information about Support Resources

The College will provide support to any complainant adversely impacted by sexual misconduct and any community member accused of a violation of this policy. Both the College and the community provide a variety of resources to assist and support individuals who have experienced sexual misconduct or are affected by allegations of sexual misconduct.

The support resource information in Appendix A includes contact information for on- and off-campus resources (including confidential resources) that can provide an immediate response in a crisis situation, including assisting with obtaining needed resources and explaining reporting options. Emergency numbers and information about law enforcement reporting and health care options are also listed in Appendix A.

It is important for victims of sexual misconduct to preserve evidence so that, should they later decide to make a report to the College or law enforcement, that evidence is available. An individual can contact the College Title IX Coordinator, MCAD's Public Safety Officers or law enforcement for help with preserving evidence. A victim is encouraged to go to a hospital for treatment and preservation of evidence, if applicable under the circumstances, as soon as practicable after the sexual misconduct incident.

B. Crime Victims' Rights

A summary of crime victims' rights under Minnesota law, including the right to assistance from the Crime Victims Reparations Board, is set forth in Appendix B. Complete information about crime victims' rights can be found online at: <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-rights.aspx>. Information about victims' rights also is available from the Title IX Coordinator or from the Minnesota Department of Public Safety, Office of Justice Programs, and in Minnesota Statutes Chapter 611A.

VI. Confidentiality

The College is sensitive to the need for privacy for the Complainant, the Respondent, and any witnesses. Therefore, in investigating complaints of sexual harassment or sexual violence, the College will be as discrete as possible. However, absolute confidentiality may not be possible in every case given the College's responsibility to provide members of the community with a positive working and learning environment that is free from sexual harassment and sexual violence. Conduct that is inconsistent with this Policy poses a potential harm or danger to members of the College community, and in some cases, the College must issue a timely warning to the College community in compliance with the Clery Act, 20 U.S.C. § 1092. In these cases, the College will only provide enough information to safeguard the College community. Also, disclosure of the allegations to the Respondent, and to those within the College administration with a need to know, may be necessary to ensure a thorough, fair, and impartial investigation. Each situation will be resolved as discreetly as possible, with information shared only with those who need to know in order to investigate and resolve the matter. Requests for confidentiality will be considered to the greatest extent possible, provided such request does not preclude the College from effectively responding to the complaint and taking appropriate corrective and preventive action. Any accommodations or protective measures provided to a Complainant will be kept as confidential as possible. All files, documents, and other materials collected during the investigation will be kept in the confidential files of the Title IX Coordinator. A student who reports an incident of sexual assault will, upon request, have access to his or her description of the incident as it was reported to the College. This right to access applies even if the student transfers to another postsecondary institution.

In connection with the College's legally required recordkeeping, statistical reporting, or community warnings under the federal Clery Act, the College will protect a victim's confidentiality to the extent possible even if the victim does not specifically request confidentiality. Publicly available recordkeeping, statistical reporting and disclosures, will not include names or other information that may personally identify either party, to the extent permitted by law. To ensure that a victim's personally identifying information is not included in publically available recordkeeping, the Title IX Coordinator describes the alleged incidents by removing the victim's and respondent's names and any other identifiers that would enable the public to identify the victim or respondent in the context of the incident report.

The College may issue a crime alert (referred to as a timely warning) to the College community about certain reported offenses if a serious or ongoing threat to the community exists. The timely warning may include that an incident has been reported, general information surrounding the incident, and how incidents of a similar nature might be prevented in the future, and will not include any identifying information about the individual who has alleged the sexual misconduct.

Minnesota law, Minn. Stat. 135A.15, requires institutions to collect statistics, without inclusion of any personally-identifying information, regarding the number of reports of sexual assault received by an institution and the number of types of resolutions. Data collected for purposes of submitting annual reports containing those statistics to the Minnesota Office of Higher Education under Minn. Stat. 135A.15 shall only be disclosed to the victim, persons whose work assignments reasonably require access, and, at the victim's request, police conducting a criminal investigation. Nothing in this paragraph is intended to conflict with or limits the authority of the College to comply with other applicable state or federal laws.

VII. Reporting Sexual Misconduct

The College encourages individuals who believe they or another person has experienced sexual misconduct to report the incident to the College. The College also encourages individuals who have experienced criminal sexual misconduct to report the incident to law enforcement.

A. Reporting to the College

In order to take appropriate corrective action, College officials must be aware of sexual misconduct. Therefore, any individual who believes that they or another person has experienced sexual misconduct should promptly report such behavior. Reports may be made to the College by contacting the following officials:

Jen Zuccola
Title IX Coordinator
Dean of Student Affairs
Morrison Bldg, M104
Minneapolis, MN 55404
Office Phone: 612-874-3626
Email: jzuccola@mcad.edu

Autumn Amadou-Blegen
Deputy Title IX Coordinator
Director of Human Resources
Morrison Bldg, M18
Minneapolis, MN 55404
Office Phone: 612-874-3798
Email: aamodoublegen@mcad.edu

Reports may also be made to a Public Safety officer. Public Safety can be contacted at:

Public Safety Office
Phone: 612-874-3700
Email: public_safety@mcad.edu

The College also has an online reporting form option, which is available on its website at: <https://intranet.mcad.edu/content/anonymous-title-ix-reporting>.

Reports can be made by telephone, email, in person, or via the online reporting form mentioned above. The College requests that reports include as much information as possible, including, to the extent known, the name of the complainant and the date, time, place, and circumstances of the incident(s) to enable the College to be better positioned to respond.

When a student or employee reports to the College that they have been a victim of alleged sexual assault, domestic violence, dating violence, or stalking, regardless of location, the College will provide a written explanation of available rights, options, and procedures.

1. Anonymous Reporting

The College accepts anonymous reports of sexual misconduct, which may be filed using the College's online reporting form at: <https://intranet.mcad.edu/content/anonymous-title-ix-reporting>. The College may be limited in its ability to investigate an anonymous report unless sufficient information is furnished to enable the College to conduct a meaningful and fair investigation. The individual making the report is encouraged to provide as much detailed information as possible.

2. Employee Reporting Obligations

College employees (with the exception of confidential resources) are required to make a prompt report to the Title IX Coordinator of information they receive or witness regarding incidents of alleged sexual misconduct. Notwithstanding the foregoing, employees are not required to report an incident in which the employee is the alleged complainant unless the employee wishes to do so.

Reports should be made as soon as possible and must include all relevant details to the extent known. If a report involves known or suspected abuse or neglect of a child, the employee must also comply with the College's [Mandatory Reporting of Maltreatment of Minor](#) policy as well as the employee's mandatory reporting obligations to state officials under state law. Failure of a College employee to report allegations of sexual misconduct to the Title IX Coordinator may result in disciplinary action, up to and including separation of employment.

Employees who receive or learn of a report of a potential violation of this policy are expected to treat complainants with dignity and respect and are prohibited from making comments to a complainant that suggest that the complainant is at fault for the reported incident(s) or should have acted in a different manner to avoid the incident(s).

B. Amnesty for Other Policy Violations

Any member of the College community who in good faith reports an incident of sexual harassment or sexual violence, whether as a victim or a witness, shall not be penalized by the College for admitting in the report to a violation of the College's student conduct policy on the personal use of drugs or alcohol.

C. Title IX Coordinator's Initial Review and Response to Reports to the College

When the College receives a report of alleged sexual misconduct, the Title IX Coordinator or his/her designee will seek to hold a preliminary meeting with the complainant. The purpose of the preliminary meeting is to allow the Title IX office to gain a basic understanding of the nature and circumstances of the report; it is not an investigation interview.

The Title IX Coordinator will also assess the report for potential risk of harm to the College community and take steps to address these risks, including but not limited to assessing the need for a timely warning under the Clery Act.

D. Reporting to Law Enforcement

Some types of sexual misconduct prohibited by this policy may also be a crime. Individuals who believe they have experienced criminal sexual misconduct are strongly encouraged to notify local law enforcement. Individuals have the right to notify or decline to notify local law enforcement. The College will assist individuals who wish to notify law enforcement. Filing a report with law enforcement is not necessary for the College to proceed with institutional procedures and will not impede institutional procedures. A College investigation and a criminal investigation may be pursued simultaneously. At times, the College may briefly delay the start of its complaint resolution process under this policy if requested by law enforcement in an effort to avoid interfering with law enforcement activities.

Individuals who would like to report sexual misconduct to law enforcement should contact the following:

- 911 (for emergencies)
- Minneapolis Police Department, 5th Precinct
3101 Nicollet Ave. South
Minneapolis, MN 55408
Phone: 612-673-3705
Email: police@ci.minneapolis.mn.us
Website: http://www.minneapolismn.gov/police/precincts/police_about_5th-precinct

VIII. Sexual Misconduct Complaint Resolution Process

When the College receives a complaint of sexual misconduct or decides that the College will initiate the complaint resolution process, the College will promptly respond and address the complaint pursuant to the guidelines and procedures set forth in this Section.

Each process involving a sexual misconduct complaint will provide a prompt, fair, and impartial investigation and resolution. Each sexual misconduct complaint resolution process will be conducted by individuals who receive annual training on the issues related to sexual misconduct and how to conduct an investigation and decision-making process that protects the safety of all and promotes accountability.

The College will take appropriate steps to eliminate sexual misconduct, prevent its recurrence, and remedy its discriminatory effects on the complainant and others as quickly as possible. In some cases, interim measures may be taken before the investigation and disciplinary process has been completed in order to address the effects of the alleged conduct that is the subject of the complaint. Any interim measures will respect the rights of all participants to be treated with fundamental fairness.

A. Complaint and Notice to Respondent

The complaint resolution process is commenced by a complainant's or the College's decision to move forward on a sexual misconduct complaint pursuant to the College's complaint resolution process. If the College decides that it will move forward with a complaint resolution process despite a victim's request for confidentiality or non-action, it will notify the complainant before proceeding.

When a complaint is submitted by a complainant, the Title IX Coordinator will review and assess the complaint to determine whether it alleges a violation of this Policy. The Title IX Coordinator has discretion to dismiss a complaint or refer a complaint to be handled pursuant to other applicable College disciplinary procedures. The parties will be notified of any such determination and the complainant will be informed of other procedures for resolving the complaint and of other resources that may be available.

When the Title IX Coordinator has determined that a complaint will be processed under the College's complaint resolution process, the Title IX Coordinator will notify the respondent and seek to meet with the respondent. If a respondent declines or does not make himself/herself available for an initial meeting with the Title IX Coordinator, the Title IX Coordinator will provide the respondent the above information by written means.

This stage of initial review of the complaint by the Title IX Coordinator and initial notice of the complaint to the respondent generally will take up to ten (10) calendar days. In some cases, more time may be required.

B. Informal Resolution Process

If the complainant, the respondent, and the College all agree to pursue an informal resolution, the Title IX Coordinator will attempt to facilitate a resolution that is agreeable to the parties and the College. The Title IX Coordinator will act as a neutral and will not be an advocate for either the complainant or the respondent in the informal resolution process. Under the informal process, the College will only conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the College, and the College community.

Informal resolution may involve the imposition of individual and community remedies designed to maximize the complainant's access to the College. The recommended resolution may also include other institutional responses, requirements, or sanctions imposed on the respondent.

The College will not require a complainant or respondent to engage in mediation, directly confront the other party, or participate in any particular form of informal resolution. Participation in informal resolution is voluntary, and the complainant and respondent have the option to discontinue the informal process at any time and request the formal resolution process. The College also has the discretion to discontinue the informal process and move the complaint to the formal resolution process. If at any point during the informal resolution process, the complainant or respondent or the College wishes to cease the informal resolution process and to proceed through the formal resolution process, the informal resolution process will stop and the formal resolution process outlined below will begin.

The informal resolution process ends when a resolution has been reached or when the complainant, the respondent, or the College terminates the process. If the parties to the complaint agree in writing to the terms and conditions of a recommended resolution, which will include a description of the information relied upon in the informal process, the case will be resolved without further process under this procedure. If all parties to the complaint do not agree in writing to the terms and conditions of the recommended resolution, the complaint will be referred to the formal resolution process.

Appeals are not allowed in cases where the parties have agreed to a voluntary informal resolution.

C. Formal Resolution Process

1. Investigation

A complaint that is processed pursuant to the formal resolution process will be investigated by one or more investigators assigned by the Title IX Coordinator to conduct an adequate, reliable, and impartial investigation. The parties will receive written notice of the investigator(s) appointed. If any party has a concern that the investigator(s) has a conflict of interest, the party should report the concern in writing as indicated in the "Conflicts of Interest" section below.

The investigator(s) will conduct the investigation in a manner appropriate to the circumstances of the case, which will typically include interviews with the complainant, the respondent, and any witnesses; these interviews are generally audio-recorded. As part of the investigation, the College will provide an opportunity for both the complainant and respondent to advise the investigator(s) of any witnesses they believe should be interviewed, other evidence they believe should be reviewed by the investigator(s), and to suggest questions that they would like asked of the other party. The investigator(s), in consultation with the Title IX Coordinator, has discretion to assess the relevancy of any proposed witnesses and determine which interviews to conduct, including the discretion to conduct interviews of individuals not identified by the parties. Similarly, the investigator(s), in consultation with the Title IX Coordinator, has discretion to assess the relevancy of any suggested questions for the other party and determine which questions to ask or not ask. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as deemed appropriate and available.

The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns.

Near the end of the investigation, the parties will be informed of a close of evidence date. The parties are required to submit any and all information and evidence they believe relevant by the close of evidence date. After the close of evidence date, the parties will not be permitted to submit new or additional evidence that existed prior to the close of evidence date, unless the investigator(s), in consultation with the Title IX Coordinator, determines otherwise.

At the conclusion of the investigation, the investigator(s) will prepare a written report setting forth the relevant facts gathered. The investigator(s) generally will compile as part of the investigation report all evidence relevant to the alleged sexual misconduct in the College's possession, including any relevant information, documents, recordings, or other evidence.

The time frame for the investigation generally is within thirty-five (35) calendar days from the assignment of the investigator(s). In some cases, more time may be required.

2. Review of Investigation Report and Response and Rebuttal Statements in Cases Involving Sexual Assault, Domestic Violence, Dating Violence, and Stalking

In cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, the investigation report will be made available for review by the complainant and respondent and the complainant and respondent will have opportunities to submit response statements and rebuttal statements, as described below.

The Title IX Coordinator will provide a seven (7) calendar day review and response period for the complainant and respondent to have access to review the investigation report and submit a written response to the investigation report. The parties may provide a written response to the investigation report by submitting a response statement to the Title IX Coordinator by the end of the seven day review and response period. The response statement may be used as an opportunity to clarify points in the investigation report or identify information previously given to the investigator(s) that is not included in the investigation report which the party believes should have been included.

The parties will have an opportunity to review the response statement submitted by the other party. The Title IX Coordinator will provide a three (3) calendar day review and rebuttal period for the complainant and respondent to have access to review any submitted response statement of the other party and submit a written rebuttal to the other party's response statement. The parties may provide a written rebuttal to the other party's response statement to the Title IX Coordinator by the end of the three day review and rebuttal period. The rebuttal statement may be used only to respond to arguments made in the other party's response statement.

The parties will have an opportunity to review the rebuttal statement submitted by the other party. The Title IX Coordinator will provide a three (3) calendar day period for the complainant and respondent to have access to review any submitted rebuttal statement of the other party. While the complainant and respondent will be given the opportunity to review any rebuttal statement of the other party, no further responses are permitted by either party.

The complainant and respondent may be assisted by their advisors, when applicable, in preparation of a response and/or rebuttal statement, but any such statements must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties' access to the investigation report and any response and/or rebuttal statement of the other party generally will be provided during normal business hours in a designated on-campus location. The investigation report and any response and/or rebuttal statements cannot be photographed, copied, or removed from the on-campus office or other location provided for review purposes. The parties (and their advisors, when applicable) may take personal handwritten notes.

The Title IX Coordinator will review any submitted response statements and rebuttal statements. Based on the statements, the Title IX Coordinator has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information removed or redacted from the investigation report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' written response and/or rebuttal statements that exceed the permitted scope or that otherwise exceed the scope of information that may be considered in the complaint resolution process, such as general character or reputation evidence and evidence relating to the complainant's prior sexual history.

3. Adjudication

Following the investigation, the Title IX Coordinator will assign two or more adjudicators to conduct an adequate, reliable, and impartial adjudication. Typically, a panel of two adjudicators will be appointed in each case. However, the College reserves the right to appoint additional adjudicators to assist in making a determination in any given case. In addition, in any complaint process, the assigned adjudicators may request to have a third adjudicator appointed to the case at any point during the adjudication prior to the issuance of the written notice of the adjudicators' decision. Generally, the adjudicators will be members of the College who have not previously been involved in the specific complaint resolution process. The College will ensure that adjudicators have received the appropriate training and are impartial and free of any conflict

of interest. The parties will receive written notice of the adjudicators appointed. If any party has a concern that an adjudicator has a conflict of interest, the party should report the concern in writing as indicated in the “Conflicts of Interest” section below.

The adjudicators will use a preponderance of the evidence standard to determine whether it is more likely than not that the respondent violated the policy. The respondent is presumed to be not responsible for a policy violation. The respondent will be deemed responsible for a policy violation only if the adjudicators conclude that there is sufficient evidence to support a finding that the respondent more likely than not engaged in sexual misconduct.

If the adjudicators determine that the respondent is responsible for a policy violation, they will then determine sanctions and remedies. The adjudicators will impose sanctions and/or remedies as they determine necessary in their discretion to end the misconduct, prevent its recurrence, and address its effects. As part of that determination of sanctions and remedies, the adjudicators may, in their discretion, request information from the Title IX Coordinator regarding any previous violations of the sexual misconduct policy by the respondent and consider such other policy violations in assigning sanctions. If such information is shared with the adjudicators, the parties will be notified.

When a respondent is found not responsible for a policy violation, but nevertheless is found to have engaged in inappropriate conduct—for example, inappropriate remarks that do not rise to the level of hostile environment sexual harassment—the College may, in its discretion, require the respondent to receive appropriate education and/or training. The College may also recommend counseling or other support services for the respondent.

The complainant and respondent will receive a written notice of the adjudicators’ decision. The notice will be provided to the complainant and the respondent at the same time.

For complaints involving sexual assault, domestic violence, dating violence, or stalking, the written notice will include the decision of the adjudicators, any imposition of sanctions, and the rationales for the decision and sanctions, including how the evidence was weighed, how the information supports the result, and the standard of evidence applied. The written notice will also include information about the procedures for appeal, as set forth below, and when the result becomes final. In addition, the written notice will include any other steps the College has taken to eliminate the conduct and prevent its recurrence and the complainant’s written notice will include remedies offered or provided to the complainant.

For all other complaints of sexual misconduct, the written notice will include the decision of the adjudicators. The respondent’s written notice will include any imposition of sanctions and the complainant’s written notice will include any imposition of sanctions that directly relate to the complainant. The written notice will also include information about the procedures for appeal, as set forth below, and when the result becomes final. In addition, the written notice will include any other steps the College has taken to eliminate the conduct and prevent its recurrence and the complainant’s written notice will include remedies offered or provided to the complainant.

The time frame for the adjudication generally is within twenty (20) calendar days from the adjudicators receiving the investigation report and any response statements and rebuttal statements of the parties from the Title IX Coordinator. In some cases, more time may be required.

The determination of the adjudicators may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision will be final.

4. Appeal

Either party may appeal the adjudicators' decision. An appeal may be made exclusively on one of the following grounds:

- There is new and significant evidence that has not yet been considered that could have affected the outcome of the process. However, prior intentional omission of evidence by the appealing party is not a ground for an appeal.
- A procedural error occurred that substantially affected the outcome of the process.
- The sanctions imposed or other response by the College were excessively severe or grossly inadequate.

The parties may request an appeal by submitting an appeal statement to the Title IX Coordinator within five (5) calendar days after written notice of the decision has been given. The appeal statement must explain the grounds for the appeal. The burden of proof is on the appealing party to show by a preponderance of evidence that one or more of the above grounds for appeal are satisfied. While the parties may be assisted by their advisors in preparation of the appeal statement, when applicable, the appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Failure to file a timely appeal constitutes a waiver of any right to an appeal. If the appeal statement states a permissible ground for appeal as listed above, as determined by the Title IX Coordinator, the Title IX Coordinator will continue the appeals process.

The non-appealing party will be notified of any appeal and the alleged grounds for the appeal. The non-appealing party may submit a written response to the appeal to the Title IX Coordinator within five (5) calendar days of receiving notice of the appeal.

The Title IX Coordinator will review the appeal statement and any written response to the appeal. The Title IX Coordinator may remove or redact any portions of the statements which exceed the permitted scope of the appeal that otherwise exceed the scope of information which may be considered in the complaint resolution process such as general character or reputation evidence and evidence relating to the complainant's prior sexual history. The Title IX Coordinator generally will compile an appeal file, which may consist of any information, documents, or other evidence that is provided to the appeal official.

In cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, the appeal file will be made available for review by the complainant and respondent. The Title IX Coordinator will provide a three (3) calendar day period for the complainant and respondent to have access to review the appeal file and such access generally will be provided during normal business hours in a designated on-campus location. The appeal file cannot be removed from that location, nor can copies be made or pictures taken of the contents. The parties (and their advisors, when applicable) may take personal handwritten notes.

The Title IX Coordinator will assign an appeal official to decide the appeal. The appeal official may be a member of the Title IX Team who has not previously been involved in the specific complaint resolution process or another individual inside or outside of MCAD who has received necessary training, is impartial and free of any conflict of interest. The parties will receive written notice of the appeal official appointed. If any party has a concern that the appeal official has a conflict of interest, the party should report the concern in writing as indicated in the "Conflicts of Interest" section below.

The appeal official will review the appeal file and may, in his/her discretion, seek additional information. In the event that the appeal official requests additional information, the complainant and respondent will be notified and provided access to additional information received by the appeal official.

The appeal official has final authority to decide whether or not one of the above-listed grounds for appeal (in Section VII. B. 4.) has been satisfied using a preponderance of the evidence standard. The appeal official will issue a written decision to the Title IX Team including his/her findings, decision and rationale. If the appeal official determines that the appealing party has not demonstrated that it is more likely than not that one or more grounds for appeal have been satisfied, the appeal official will dismiss the appeal. This dismissal decision is final and is not appealable.

In addition, if the appeal official believes that the decision should be reconsidered, or that the sanctions imposed or other response by the College are excessively severe or grossly inadequate, the appeal official may include that in his/her recommendations. His/her final decision regarding grounds for appeal and the recommendations will be remanded to the Title IX Team for review and final decision.

The time frame for the appeal generally is within thirty (30) calendar days from the appeal official's receipt of the appeal file. In some cases, more time may be required.

Appeals arising out of alleged violations of this policy must be made under this appeal process and are not eligible for consideration under any other faculty, staff or student grievance policies or processes.

D. Possible Sanctions and Remedies

Sanctions and remedies that the College may assign in either the formal resolution process or the informal resolution process are intended to be corrective, educational, and disciplinary. Each potential sanction listed in this Section may be imposed alone or in combination for a respondent found responsible for a violation of this Policy.

The sanctions which may be imposed include, but are not limited to, the following:

- *Oral Warning*: an oral notice that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
- *Formal Reprimand*: an official written statement of the College's disapproval of the actions of a respondent and a warning that any future violation(s) will result in more serious discipline, up to and including dismissal.
- *Performance Improvement Processes*: An employee may be issued performance improvement documentation and requirements.
- *Changes in Terms and Conditions of Employment*: For an employee, an individual may have a change implemented as to the person's position, rank, appointment, duties, compensation or other terms and conditions of employment.
- *Revocation of Admission or Job Offer*: A student or employee applicant may have an offer of admission or employment revoked by the College.
- *Revocation of Tenure or Other Appointment*: An employee or faculty member may have an appointment or status, including tenure status, revoked.
- *Disciplinary Probation*: an official notice that the conduct of the respondent is in violation of this Policy, but does not warrant suspension, dismissal or termination. Probation is for a designated period of time and includes the possibility of more severe disciplinary sanctions, up

to and including dismissal, if the respondent commits another violation during the probationary period. In the case of a student, during the probation period, a student will be considered “not in good standing” and may be excluded from some programs and curricular or extracurricular activities.

- *Suspension*: an involuntary separation of the respondent from the College for a definite period of time and/or until certain conditions are met. Suspension of a student may require administrative review and approval by the appropriate officials prior to readmission. In the case of an employee, the suspension is unpaid.
- *Deferred Suspension*: the discipline of suspension may be placed in deferred status provided that the respondent completes other assigned sanctions by specified deadline dates. Failure to complete all sanctions and provide evidence of completion by the deadline date(s) will result in the automatic implementation of the suspension without further charges or administrative procedures. If a respondent is found responsible for another violation of College Policy during the period of deferred suspension, the respondent may be permanently dismissed from the College.
- *Permanent Dismissal*: a respondent can be involuntarily separated from the College.
- *Delay and/or Denial of Degree Award*: during the period disciplinary charges are pending against a student, the College may deny and/or delay issuance of a degree. Further, the College may refuse to issue a degree to a student who is serving a suspension or has been permanently dismissed from the College.
- *Revocation of Degree*: an awarded degree may be revoked for violations of this Policy, which occurred prior to the award of the degree but are discovered after the degree has been awarded, where the violation is sufficient to justify the suspension or permanent dismissal of the student.
- *Educational/Accountability Measures*: an individual may be required to attend an educational class, training, meeting, assessment, coaching, counseling, and/or rehabilitation, at the individual’s expense.
- *Loss of Privileges and Access/Participation Restrictions*: An individual may lose one or more privileges afforded to them as a College community member or otherwise, including but not limited to loss of campus housing, campus access, or participation in a group, program, course, or activity.
- *Other Sanctions*: Other sanctions may be imposed instead of or in addition to those specified above, which could include: (a) restitution (compensation for loss, damage or injury); (b) fines; (c) community service; (d) behavioral agreements (e) no trespass directives; (f) no contact directives; (g) restrictions on reapplication, rehire or reenrollment; and/or(h) removal or non-renewal of scholarships or honors.

The College reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct in order to protect student and employee rights and personal safety. Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the College reserves the right to impose differing sanctions, depending on the severity of the offense. In the event that the College issues a sanction that is not contained in this policy, it will include that sanction in its next policy update.

The College may also put in place remedies, accommodations, and protective measures for the complainant or others, which may include, but are not limited to:

- A mutual or one-sided no contact directive;
- Prohibiting an individual involved from being on College property;

- Prohibiting an individual involved from participating in College-sponsored events or activities;
- Changing an individual's on campus residency, dining, or transportation arrangements, or prohibiting an individual from residing in a College residence;
- Special parking arrangements;
- Assistance in finding alternative housing;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule;
- Providing academic accommodations or providing assistance with academic issues;
- Providing escorts;
- Access to counseling and medical services;
- Making information about protective orders available to a complainant;
- Assistance identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support and services.

In addition, the College may recommend education, training, counseling, or other support services for others involved in the complaint resolution process, including complainants and witnesses, in some instances—for example, when individuals have engaged in high-risk use of alcohol or drugs.

IX. Rights and Obligations in the Complaint Resolution Process and General Provisions

A. Rights of the Complainant and Respondent

The College strives to provide a prompt and fair process for investigating and resolving complaints of sexual misconduct. Throughout this process, both the complainant and respondent have the following rights, many of which are described in greater detail in this policy:

- To be treated with respect and dignity.
- For a complainant, to report sexual misconduct to the College.
- For the complainant, to receive assistance from the College in reporting sexual misconduct to law enforcement at any stage of the process and the right to decline to make such a report.
- To receive information about the process the College will employ for conducting the investigation, adjudication, and appeal.
- To the prompt and equitable resolution of the complaint.
- To receive information about support available from College or community resources.
- To privacy, to the extent possible consistent with applicable law and College policy.
- To choose whether or not to participate in the complaint resolution process.
- To a prompt and thorough investigation of a complaint.
- To have a reasonable time to provide information to the investigator(s).
- To raise a concern regarding a possible conflict of interest on the part of any person involved in the investigation, adjudication, or appeal.
- To appeal the decision and any sanctions determination made by the adjudicators in certain circumstances, as discussed in the Appeal section.
- To notification, in writing, of the case resolution, including the outcome of any appeal.
- To be free from retaliation as defined in this policy.
- To written notice of the allegations and defenses and an opportunity to respond;

- To have equal opportunity to identify relevant witnesses and other evidence and to suggest possible questions to be asked of the other party during the formal process;
- To periodic updates, and updates upon request, on the status of the investigation and/or adjudication;
- For the complainant, not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent;
- For the complainant, to never be treated by campus authorities in a manner that suggests they are at fault for the sexual misconduct or that they should have acted in a different manner to avoid the sexual misconduct.

In cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, the following rights will be afforded to the complainant and the respondent in addition to those rights described above.

- The complainant and respondent have the right to timely and equitable notice of any meeting or proceeding at which the person's presence is expected by this policy.
- The complainant and respondent have the right to timely and equal access to information that will be used during informal and formal disciplinary meetings during the adjudication phase of the complaint resolution process.
- The complainant and respondent have the right to the assistance of campus personnel (during and after the complaint process), in cooperation with the appropriate law enforcement authorities, in shielding the complainant or respondent, at their request, from unwanted contact with the complainant or respondent, including but not limited to a College issued no-contact directive, transfer to alternative classes or to alternative College-owned housing (if alternative classes or housing are available and feasible), change in work location or schedule, or reassignment (if available and feasible); and to receive assistance with academic issues.
- The complainant has the right to decide when to repeat a description of an incident of sexual assault, dating violence, domestic violence, or stalking, and the respondent has the right to decide when to repeat a description of a defense to such allegations.
- The complainant and respondent have the right to an advisor of choice to be present during the complaint resolution process. The College will not limit the choice of advisor for the complainant or respondent in any meeting or disciplinary process. See the "Advisors in Cases Involving Allegations of Sexual Assault, Dating Violence, Domestic Violence, and Stalking" section below for additional information and rules regarding the conduct of advisors.
- The complainant and respondent have the right to the complete and prompt assistance of campus authorities, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a sexual assault incident.
- The complainant and respondent have the right to the assistance of campus authorities in preserving materials relevant to a campus complaint proceeding.
- The complainant and the respondent have the right to be provided access to their description of the incident, as it was reported to the College, including if the individual transfers to another post-secondary institution, subject to compliance with FERPA, the Clery Act, Title IX, and other federal or state law. Requests for an individual's description of the incident should be made to the Title IX Coordinator.

In addition, a complainant who alleges sexual assault, dating violence, domestic violence, or stalking has the following rights in addition to those rights described above:

- To be informed by the College of options to notify proper law enforcement authorities of a sexual assault, dating violence, domestic violence, or stalking incident, or to decline to notify such authorities.
- To the complete and prompt assistance of campus authorities, at the complainant's request, in notifying the appropriate law enforcement officials and College officials of a sexual assault dating violence, domestic violence, or stalking incident and filing criminal charges with local law enforcement officials in sexual assault, dating violence, domestic violence, or stalking cases.
- To be offered fair and respectful health care, counseling services, or referrals to such services and notice of the availability of campus or local programs providing sexual assault advocacy, dating violence, domestic violence, or stalking services.
- To be offered assistance from the Crime Victim Reparations Board and the Commissioner of Public Safety.
- For students who choose to transfer to another post-secondary institution, at the student's request, the right to receive information about resources for victims of sexual assault, dating violence, domestic violence, or stalking at the institution to which the complainant is transferring.

B. Advisors in Complaints of Sexual Assault, Domestic Violence, Dating Violence or Stalking

A complainant and respondent have the right to be assisted by an advisor of their choice, including an attorney, in connection with a complaint resolution process involving a complaint of sexual assault, domestic violence, dating violence or stalking. Generally, the advisor selected by a party should be free of conflicts of interest in the complaint resolution process and, if a member of the College community, the advisor should be free of conflicts in his or her position in the community. An individual has the right to decline a request to serve as an advisor in the College's complaint resolution process.

The following requirements apply to the use of an advisor:

- The purpose of the advisor is to support a party during the complaint resolution process. An advisor is permitted to accompany the party to in-person interviews or other meetings during the complaint resolution process. In selecting an advisor, each party should consider the potential advisor's availability to attend in-person interviews and meetings. As a general matter, the College will not unnecessarily delay its processes to accommodate the schedules of advisors.
- Advisors may confer with their advisee, but they may not actively participate in the complaint resolution process. The advisor may accompany the complainant or respondent to all meetings relating to the complaint resolution proceeding. The advisor may not appear in lieu of the complainant or respondent or speak on their behalf in either in-person or written communications to the College. The advisor may not communicate directly with the investigator(s), adjudicators, appeal official, Title IX Coordinator, or any other school official involved in the complaint resolution process and may not interrupt or otherwise delay the complaint resolution process.
- Advisors may have access to information concerning a case only when accompanying the party (for in-person access to information) or only when the party has given permission for the advisor to be copied on emails or other correspondence (for access to written communications). An advisor's access to such information is subject to the same limitations as those placed upon the parties and conditioned upon the advisor's agreement to maintain the confidentiality of any student education records or other confidential information.
- If a party selects an attorney as an advisor, the advisor's participation in the complaint process is in the role of an advisor and not as an attorney representing a party. The advisor will have access to highly confidential information and is prohibited from sharing information obtained as an advisor

during the complaint process with anyone, including other individuals who may be part of an attorney-client relationship with the party.

- The College will notify a party to a complaint resolution process if another party involved in the complaint resolution process has obtained an advisor. The notice shall indicate if the other party's advisor is an attorney.
- Advisors will be required to sign an Advisor Agreement acknowledging receipt and understanding of these requirements. Failure to comply with these requirements, including violations of confidentiality, or other forms of interference with the complaint resolution process by the advisor may result in disqualification of an advisor. The College reserves the right to dismiss an advisor.

C. Interim Actions and Protective Measures

The Title IX Coordinator will consider whether interim actions, accommodations, or protective measures are reasonably necessary or appropriate to protect the parties and the broader College community, including protection from retaliation, pending completion of the assessment of a report and/or the complaint resolution process. The College will provide written notification to complainants about options for, available assistance in, and how to request changes to academic, living, transportation and working situations, and protective measures. Interim protective measures will be considered regardless of whether a complainant chooses to report the incident to local law enforcement, asks to keep a reported violation of the policy confidential, or requests that the College not investigate or otherwise act the matter. The College will comply with a student's reasonable request for a living and/or academic situation change following an alleged sex offense. When appropriate, such interim actions and protective measures may be available to complainant, respondent, and others adversely impacted by the complaint resolution process, if requested and reasonably available.

Any person seeking interim action or protective measures, including complainants and respondents, should contact the Title IX Coordinator.

Examples of interim actions include, but are not limited to:

- Establishing a "no contact" directive prohibiting parties from communicating with each other or having other contact;
- Changing an individual's on-campus residency, parking, transportation, or other arrangements.
- Assistance in finding alternative housing;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule;
- Providing academic accommodations or assistance, including but not limited to allowing an individual to drop a class in which both parties are enrolled without any academic penalty;
- Providing security escorts;
- Access to counseling and medical services;
- Making available information about protective orders and providing assistance with respect to obtaining and enforcing such orders;
- Assistance in identifying additional resources or assistance, including off-campus and community advocacy, support and services and student financial aid;
- For students who choose to transfer to another institution, at the student's request, providing information about resources for victims of sexual assault at the institution to which the student is transferring.

Other protective measures may be available, if safety concerns or other overriding circumstances warrant them, including:

- Barring an individual from College property;
- Prohibiting an individual involved from participating in College sponsored events;
- Prohibiting an individual from residing in a College residence.

The College determines which measures are appropriate for a particular individual on a case-by-case basis. Such measures will vary based on the particular facts and circumstances, including, but not limited to, the specific need expressed by the individual, the age of the individuals involved, the severity or pervasiveness of the allegations, any continuing effects on the individual, whether the complainant and respondent share the same residence hall, dining hall, class, transportation, or job location, and whether other judicial measures have been taken to protect the complainant. The Title IX Coordinator will be responsible for determining what measures will be put in place.

Interim actions or protective measures provided to an individual are confidential, provided confidentiality would not impair the ability of the College to provide the accommodations or protective measures. The college will only disclose information necessary to provide the accommodations or protective measures in a timely manner to individuals who need to know the information in order to effectively provide the accommodations or protective measures. The Title IX Coordinator will determine what information about an individual should be disclosed and to whom this information will be disclosed based on the facts and circumstances of the specific situation and the accommodation to be provided. The College will inform the individual before sharing personally identifying information that the College believes is necessary to provide an accommodation or protective measure. The College will tell the individual what information will be shared, with whom, and why.

D. Conflicts of Interest

If a complainant or respondent has any concern that any individual acting for the College under this Policy has a conflict of interest or bias, they should report the concern in writing to the Title IX Coordinator. Any concern regarding a conflict of interest or bias must be submitted within two (2) calendar days after receiving notice of the person's involvement in the process. The Title IX Coordinator will review the concerns and take appropriate steps to ensure that the assigned investigator(s), adjudicators, and appeal officials do not have a conflict of interest or bias.

E. Time Frames for Resolution

In some cases, extensions of the applicable time frames may be necessary. The Title IX Coordinator may grant reasonable extensions to the time frames set forth in this policy when warranted by the circumstances. For example, extensions may be granted if the College has been asked to delay its procedures during the evidence gathering stage of a criminal investigation, if the reported allegations are particularly complex (including, without limitation, allegations that involve multiple incidents and/or multiple individuals), if parties or witnesses are not on campus due to a scheduled break or for another reason, due to unsuccessful attempts at informal resolution, or for other unforeseen circumstance. Extensions will be no longer than necessary. The complainant and respondent will receive written notice of any extensions, the reason for the extension, and the expected adjustment to the time frame.

X. Complaints of Retaliation, Violation of Interim Measures, or Violation of Sanctions

Any concern, report, or complaint relating to retaliation in violation of this policy, violations of interim measures, or violations of sanctions should be reported promptly to the Title IX Coordinator. The College will take appropriate action against any individual who retaliates against another person in violation of this policy or who violates interim measures or sanctions.

“**Retaliation**” means any adverse action, or threat thereof, taken against an individual for making a good faith report or complaint of a potential violation of this policy, supporting another person’s report or complaint, responding in good faith to a complaint or report, participating in good faith in the investigation of a complaint or the complaint resolution process, or opposing in good faith a practice or conduct that the person reasonably believes is in violation of this policy. Retaliatory acts may include, but are not limited to: any form of intimidation, threats, harassment, coercion, and other adverse action. See the “Retaliation Prohibited” section below for more information.

XI. Alternative Procedures

Nothing in this policy is intended to interfere with the right of any individual to pursue other avenues of recourse which may include, but is not limited to, filing a complaint with the United States Department of Education’s Office for Civil Rights (OCR). The OCR office for institutions located in Minnesota is:

U.S. Department of Education
Office for Civil Rights
Chicago Office
John C. Kluczynski Federal Bldg.
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604
Telephone: 312-730-1560
FAX: 312-730-1576
TDD: 800-877-8339
Email: OCR.Chicago@ed.gov

XII. Education and Training

The College offers informational sessions on sexual misconduct to students, staff, and faculty. Public safety officers, the Title IX Coordinator, the Deputy Title IX Coordinator, and all appeal officials and investigators will be required to undergo annual training on the issues related to sexual misconduct, including dating violence, domestic violence, sexual assault and stalking. Investigators will also receive annual training on how to conduct an investigation that protects the safety of complainants and promotes accountability.

The College will present education programs and campaigns that promote prevention and awareness of sexual misconduct, including domestic violence, dating violence, sexual assault, and stalking, for incoming and current employees and students. This will include:

- Training on safe and positive options for bystander intervention that individuals may take to prevent harm or intervene in risky situations;
- Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;

- Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault or stalking has occurred, including the procedure described in this Policy;
- Definitions under Minnesota law of various terms covered by this Policy.

Policy Effective Date: August 26, 2019

**APPENDIX A TO
MCAD SEXUAL MISCONDUCT POLICY
RESPONSE TO SEXUAL VIOLENCE AND RESOURCES**

I. WHAT TO DO IF YOU EXPERIENCE SEXUAL VIOLENCE

Get to a safe place.

Immediate assistance is available by calling the Minneapolis Police at 911.

Consider taking immediate action to obtain medical, emotional, or other assistance on and/or off campus.

Don't be afraid to ask for help. Consider telling someone immediately or at any time when you are comfortable doing so: a confidential College resource or your roommate, your Resident Advisor, your counselor, the Title IX Coordinator, a Public Safety Officer, an instructor or a staff member.

Even if you aren't sure that you will want to involve law enforcement or report to the College, you should take steps to preserve evidence so that you will have that evidence available to you later should you decide to take action. Steps to take include:

- Go to a hospital both for care and for help verifying and preserving evidence.
- Prior to seeking medical attention, do not shower, douche, wash your hands, brush your teeth, comb your hair, use the toilet, wash clothing, smoke, drink or eat.
- Bring a change of clothes to the hospital since your clothes may be collected as evidence. If you have changed clothes, keep the clothes you were wearing for evidence and secure them in a clean paper bag or clean sheet.
- Do not disturb items. Leave the scene of the incident untouched.
- If you have taken any bedding or other items that may be evidence off your bed or away from the scene, don't wash anything and secure any items in a clean paper bag or clean sheet.
- Evidence found in phone records (texting), e-mails, and/or social media (Facebook, Snapchat, etc.) should also be preserved.

At the request of a sexual assault victim or at the direction of law enforcement, a MCAD Public Safety officer will provide prompt assistance in obtaining, securing, and maintaining evidence in connection with an incident of sexual assault and in preserving materials relevant to a campus disciplinary proceeding.

Complainants are urged to contact the Title IX Coordinator, Deputy Title IX Coordinator or a Public Safety Officer to make a report to the College. The College can arrange for interim actions, accommodations, and assistance, including no-contact directives. The College will also assist in any needed advocacy for community members who wish to obtain harassment restraining orders or orders for protection from local authorities. The College can also explain the options available under the Sexual Misconduct Policy even if you aren't ready to share details of your situation or pursue a complaint.

Complainants are encouraged to contact the police to report any crime and obtain information on their criminal enforcement options. Designated staff members will also accompany the complainant to the police station upon request.

II. MCAD SUPPORT RESOURCES

Support can be obtained by contacting the following members of the College's Title IX Team:

Jen Zuccola
Title IX Coordinator
Dean of Student Affairs
Morrison Bldg, M104
Minneapolis, MN 55404
Office Phone: 612-874-3626
Email: jzuccola@mcad.edu

Autumn Amadou-Blegen
Deputy Title IX Coordinator
Director of Human Resources
Morrison Bldg, M18
Minneapolis, MN 55404
612-874-3798
Email: aamodoublegen@mcad.edu

Counseling and Mental Health Services

The College provides confidential counseling services to students through the Student Health and Wellness Center during fall and spring semesters for students who feel they have been victims of sexual violence:

Student Health and Wellness Center
Morrison Bldg., Lower Level, M04 and M02
Fall and Spring Semesters Hours: 9 a.m. – 5 p.m. Monday-Friday
Phone: 612.874.3776
Email for Appointments: bstockinger@mcad.edu

Benefits eligible staff and faculty may use the Employee Assistance Program (Heath Partners: Twin Cities (866) 326-7194 or www.hpeap.com for counseling and referral).

Other MCAD resources include:

- MCAD Public Safety Emergency Line (612) 874-3555; public_safety@mcad.edu
- MCAD Financial Aid (612) 874-3733
- International Student Assistance (612) 874-3628

III. EXTERNAL SUPPORT RESOURCES

A. Law Enforcement

- *Minneapolis Police*

911 (for emergencies)

Minneapolis Police Department, 5th Precinct (612) 673-5705

3101 Nicollet Ave. South

Minneapolis, MN 55408

Phone: 612-673-3705

Email: police@ci.minneapolis.mn.us

Website: http://www.minneapolismn.gov/police/precincts/police_about_5th-precinct

B. Medical Clinics, Hospitals and Resources

- *Hennepin County Medical Center (HCMC)*

HCMC Emergency Room (612) 873-3132

701 Park Avenue

Minneapolis, MN 55415

<https://www.hennepinhealthcare.org/support-services/violence-assault-and-abuse-resources/>

HCMC-Urgent Care (612) 873-5555

Red Building, R1.060

730 South 8th Street Entrance

Minneapolis MN 55415

HCMC Acute Psychiatric Services 612-873-3161

8 a.m. – 2 p.m., T-F for Hennepin County adults

Red Building, First Floor

730 South 8th Street Entrance

Minneapolis MN 55415

- *Abbott Northwestern Hospital*

800 East 28th Street

Minneapolis, MN 55407

(612) 863-4233

- *Hennepin County COPE Team*

(612-596-1223)

Emergency Mental Health Services

- *Behavioral Emergency Center*

(612-273-5640)

U of M Medical Center,

West Bank Emergency Center

2312 S 6th St

- *Regions Hospital*

(651) 254-3456

640 Jackson Street

St. Paul, MN

Hennepin County Medical Center (HCMC) and Abbott Northwestern Hospital in Minneapolis provide sexual assault care services assistance to complainants of rape and sexual assault 24 hours per day. Sexual Assault Nurse Examiners (SANEs) perform a special exam and collect evidence in a "rape kit." Information on additional locations that offer SANE exams can be found online at: <https://mnforensicnurses.org/minnesota-sane-programs/>

In addition to answering any questions, SANEs will carry out a special exam which involves:

- Collecting and saving evidence that will be needed to report sexual assault to law enforcement. Medical evidence can be collected up to 72 hours after the assault or longer, but the sooner the better;
- Evaluating risk for pregnancy and discussing safe prevention options;

- Evaluating risk of contracting a sexually transmitted infection and offering medication to reduce that risk;
- Evaluating and documenting any injuries;
- Providing resources to help during your recovery. This will include advocate services, agencies for medical follow-up, information about reporting this crime to law enforcement, information about the Crime Victims Reparations Fund and many other resources.

Choosing to be seen by a SANE is about your health and safety; you have the right to decline any part of the exam at any time.

You may take a friend or victim advocate with you to the hospital. The Sexual Violence Center, serving Hennepin County (<https://www.sexualviolencecenter.org/>), is available 24 hours per day and can provide a trained advocate to accompany you to the hospital.

You do not need to decide if you want to report a sexual assault to law enforcement right away. You can discuss your options for reporting with your SANE, a sexual assault advocate, or your friends and family. If you decide to report after you leave the hospital, the evidence collected during the exam will be saved for at least 30 days. If you have already reported your assault, your SANE will make sure the correct law enforcement agency is made aware that evidence was collected.

The county in which you were assaulted is required by law to pay for your forensic exam. If you have injuries that require medical care, such as stitches or x-rays, your insurance will be billed if that is possible. Any charges beyond this will be covered by the hospital at which you were seen. For more information about Sexual Assault Nurse Examiners, please visit the links in the list of health care options above.

C. Crisis Lines and Support Resources

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| • Crisis Textline:
resources | Text MN to 741-741 for local MN |
| • RAINN
(Rape, Abuse, and Incest National Network)
Website: https://www.rainn.org/
Online Chat: https://hotline.rainn.org/online/ | 24/7 Phone: 1.800.656.4673 |
| • Sexual Violence Center Minneapolis
Website: https://www.sexualviolencecenter.org/ | 24 hour Phone: (612) 871-5111 |
| • National Suicide Prevention Lifeline | 1-800-273-8255 |
| • Suicide Hotline | (612) 873-2222 |
| • Suicide Assessment, Info, and Referral | (612) 873-3161 |
| • Trevor Lifeline
(Suicide Prevention for LGBTQ Youth) | 1-866-488-7386 |
| • Trans Lifeline: | 877-565-8860 |
| • Veterans' Suicide Prevention Lifeline: | 1-800-273-8255 |

D. Victim Support and Advocacy Resources

- Resource List for Victims <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/resource-list-victims.aspx>
- LawHelpMN.org <https://www.lawhelpmn.org/self-help-library/abuse-crime-victims/sexual-violence>
- Council on Crime and Justice (612) 340-5400
- MN Center for Crime Victims Service (651) 201-7300 / (888) 622-8799

- Hennepin County Victim Services (612) 348-4003
- Minneapolis Civil Rights Office (612) 673-3012
- Domestic Abuse Service Center (612) 348-5073
- AIDSLINE (612) 373-2437
- Chrysalis: A Center for Women (612) 871-0118
- Cornerstone Advocacy (612) 825-4357
- First Call for Help/United Way (651) 291-0211

E. Legal Assistance

- Southern Minnesota Regional Legal Services
- Volunteer Attorney Program www.smrls.org / (651) 228-9823
- Volunteer Lawyers Network Ltd. www.vlnmn.org / (612) 752-6655
- Tubman Legal Services www.tubman.org / (612) 825-3333
- The Domestic Abuse Project (612) 673-3526
- Bridges to Safety (651) 266-9901

F. Outside Visa and Immigration Assistance

- Immigrant Law Center of Minnesota (800) 223-1368
450 North Syndicate St., Suite 200
St. Paul, MN 55104
- Southern Minnesota Regional Legal Services (888) 575-2954

IV. INFORMATION REGARDING OBTAINING A RESTRAINING ORDER, ORDER FOR PROTECTION, OR DOMESTIC ABUSE NO CONTACT ORDER

Harassment restraining orders and orders for protection are legal orders issued by state courts that forbid someone from harassing and/or making contact with another. A harassment restraining order is a civil court order issued against an alleged harasser, regardless of the relationship between the alleged harasser and the alleged victim, which orders the harasser to stop harassing the victim and/or to have no contact with the victim. An order for protection is a civil court order that protects one family or household member from domestic abuse by another family or household member.

The Minnesota Judicial Branch is responsible for the issuance of harassment restraining orders and orders for protection to be enforced by local law enforcement. Petition forms to apply for harassment restraining orders and to seek an order for protection are available at the Hennepin County Courthouse and online at <http://www.mncourts.gov/Help-Topics/Domestic-Abuse-and-Harassment.aspx>. The Hennepin County Domestic Abuse Service Center (DASC) serves people who are victims of violence caused by a family or household member. This includes anyone who has been the victim of actual or threatened violence by a person with whom they have had a romantic or sexual relationship, or people who have lived together. At DASC, District Court staff will help individuals complete the paperwork requesting a temporary Order for Protection (OFP). In addition, help with filing a harassment restraining order is available from the Self-Help Center.

Domestic Abuse Service Center:

- Hennepin County Government Center: 612.348.5073
 - Address: 300 S. 6th Street, Rm. #A-0650, Minneapolis, MN 55487
 - Website: <http://www.mncourts.gov/Find-Courts/Hennepin/Hennepin-Domestic-Abuse-Service-Center.aspx>

Self-Help Center:

- Hennepin County Government Center: 612.348.9399
 - Address: 300 S. 6th Street, 2nd Floor, PSL, Minneapolis, MN 55487
 - Website: <http://www.mncourts.gov/Find-Courts/Hennepin.aspx#tab0601GeneralInformation>

Domestic abuse no contact orders are legal orders issued by a court against a defendant in a criminal proceeding for domestic abuse, harassment or stalking of a family or household member, violation of an order for protection, or violation of a prior no contact order. A domestic abuse no contact order may be issued before the end of the criminal case or following a conviction.

**APPENDIX B TO
MCAD SEXUAL MISCONDUCT POLICY
Crime Victims Bill of Rights**

When a crime is reported to law enforcement, victims have certain rights as the case moves through the criminal justice system. These rights include the right to be notified of certain court and correctional events, the right to participate in prosecution, the right to protection from harm, and the right to apply for financial assistance. A summary of these rights is provided below.

The following is a summary of crime victims' rights under Minnesota law.

When a crime is reported to law enforcement:

Victims have the right to:

- Ask the law enforcement agency to keep your identity private in reports available to the public.
- Be notified of certain crime victim rights and information on the nearest crime victim assistance program or resource.
- Apply for reparations (financial compensation) for non-property losses related to a violent crime.
- In cases of violent crime and domestic abuse where an arrest has been made, be provided notice of the release of the offender along with information on the release conditions and supervising agency.

When a case is prosecuted:

Victims have the right to be notified of:

- The prosecution process and your right to participate in it.
- Information on the nearest crime victim assistance program or resource.
- The right to apply for reparations (financial compensation) for non-property losses related to a violent crime.
- A proposed pretrial diversion referral.
- A change in the hearing schedule if subpoenaed or asked to testify.
- The right to request restitution from the offender upon conviction.
- The contents of a proposed plea agreement.
- The outcome of the case.
- After conviction and upon request, the release or escape from custody of the offender from jail or prison or transfer to a lower security facility.
- An appeal and the right to attend the related hearing and to be notified of the result of that appeal.
- In felony or violent crime cases, a proposed modification to the sentence, the related hearing, and the right to provide input.
- A petition for expungement, upon request.

Victims have the right to participate in the process:

- Provide input in a pretrial diversion decision.
- Ask the prosecutor to request a speedy trial.
- Be notified of and attend the plea and sentencing hearings.

- Object to a proposed plea agreement at the plea hearing.
- When a presentence investigation (PSI) is conducted, provide information about the impact of the crime and your position regarding the proposed disposition.
- Give a victim impact statement at the sentencing hearing in writing or orally.

Certain rights address victims' safety, privacy, and protection, including the right to:

- Be notified of and provide input for a bail hearing in cases of violent crime and domestic abuse.
- A secure waiting area or safeguards against the offender and his/her supporters in the courthouse.
- Report witness tampering or violations of no contact or restraining orders.
- Ask that your home and employment addresses, telephone numbers, and birthdate be withheld from the offender and in open court.
- Protection against employer retaliation for you or your family member(s) taking reasonable time off to attend hearings or to testify in cases of violent crime.
- Make a confidential request that the court order an HIV test of the convicted offender in cases of sexual assault and some violent crimes.
- In homicide cases, to seek a court order preventing an offender from disposing of the deceased victim's property. Laws also prevent an offender from financially benefitting from the crime.

To address the financial impact of the crime, victims have the right to:

- Apply for reparations (financial compensation) for non-property losses related to a violent crime.
- Seek restitution from the offender for out-of-pocket expenses directly related to the crime if the offender is convicted.
- Ask the offender's probation officer to schedule a hearing if the offender fails to pay restitution.
- Pursue a civil case against the offender for your losses, whether or not criminal charges have been filed.

Domestic violence, sexual assault, and stalking victims have the right to:

- Be informed by the prosecutor of any decision to decline or dismiss a case along with information about seeking an order for protection or harassment restraining order at no cost.
- Terminate a lease without penalty or payment to escape a violent situation.
- If a domestic violence victim, obtain at no cost a copy of the incident report the responding law enforcement agency is required to write.
- If a sexual assault victim, have a confidential sexual assault examination at no cost and receive notice of rights and resources from the medical facility.
- If a sexual assault victim, refuse a polygraph examination without impacting whether the investigation or prosecution will proceed.

Complete information about crime victims' rights can be found at: <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-rights.aspx>. Information about victims' rights also is available from the Title IX Coordinator or from the Minnesota Department of Public Safety, Office of Justice Programs, and in Minnesota Statutes Chapter 611A.

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