



## **Title IX Sexual Harassment Policy**

The following policy pertains only to sexual harassment as defined by Title IX Section 106.30.

According to Title IX Section 106.30, sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).Conduct definition

### **Statement of Policy**

It is the policy of MCC, in keeping with efforts to establish an environment in which the dignity and worth of all members of the institutional community are respected, that sexual harassment of students and employees at MCC is unacceptable conduct and will not be tolerated. Sexual harassment may involve the behavior of a person of either sex against a person of the opposite or same sex, when that behavior falls within the definition set forth in Title IX § 106.30. The application of this policy is in no way directed at inhibiting academic freedom or 1<sup>st</sup> Amendment freedoms.

### **Presumption of Responsibility**

Throughout training, investigations, and proceedings, it is assumed a respondent is not responsible for actions and/or damages alleged until a finding of responsibility has been determined.

### **Equity**

Meridian Community College does not discriminate on the basis of race, color, national origin, sex, disability, religion or age in admission or access to, or treatment or employment in its programs and activities.

**Applicability/Jurisdiction** - This policy only applies to individuals and activities located in the United States that are related to a Meridian Community College program.

### **Title IX Coordinator**

The Title IX coordinator (or designee) oversees the College's investigation and response to incidents of Title IX violations. Meridian Community College has designated the following employee as the Title IX Coordinator.

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## **Definitions:**

**Actual knowledge:** Means notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the recipient with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the recipient. "Notice" as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator as described in § 106.8(a).

**Advisor:** The complainant and respondent may each choose and be accompanied to any meeting or hearing related to these Procedures by an Advisor, who may provide support during such meeting or hearing. During meetings and interviews, the Advisor may quietly confer or pass notes with the party in a non-disruptive manner. The Advisor may not intervene in a meeting or interview, or address the Investigator. Consistent with the institution's obligation to promptly resolve sexual misconduct complaints, the institution reserves the right to proceed with any meeting or interview, regardless of the availability of the party's selected Advisor.

**Complainant:** An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

**Consent:** Agreeing to do or allow something. It may be given by words or actions, so long as those words or actions create clear, mutually understood permission to engage in (and the conditions of) sexual activity. Silence does not necessarily constitute consent, and past consent of sexual activities does not imply ongoing future consent. A person who is unable to consent includes, but is not limited to, any person under the legal age of consent, anyone who is physically helpless, or anyone who is mentally incapacitated. A physically helpless person is considered to be one who is unconscious or for any other reason unable to communicate unwillingness to engage in any act. A mentally incapacitated person may be one who is under the influence of alcohol or a drug, or who is mentally incapable of understanding the implications and consequences of any act.

**Dating Violence:** Means violence committed by a person

- a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - (i) The length of the relationship.

(i)The type of relationship.

(iii)The frequency of interaction between the persons involved in the relationship.

**Decision Maker(s)**: Individual(s) who will determine the sanctions and remedies for parties.

**Domestic Violence**: A felony or misdemeanor crime of violence committed

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

**Formal Complaint**: A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator under § 106.8(a), and by any additional method designated by the recipient. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party under this part or under § 106.45, and must comply with the requirements of this part, including § 106.45(b)(1)(iii).

**Investigator**: An individual who acts as a neutral party in the investigation and provides a detailed, unbiased report regarding the findings of the investigation.

**Postsecondary Institution**: An institution of graduate higher education as defined in § 106.2(l), an institution of undergraduate higher education as defined in § 106.2(m), an institution of professional education as defined in § 106.2(n), or an institution of vocational education as defined in § 106.2(o).

**Respondent**: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

**Retaliation**: Retaliation against a person who has in good faith filed, supported or participated in an investigation of a complaint of any type of discrimination, harassment or sexual misconduct as defined above is prohibited. Retaliation includes, but is not limited to, ostracizing the person, pressuring the person to drop or not support the complaint, or adversely altering that person's educational, living, or work environment. Students accused of retaliation will be subjected to the procedures of the MCC Disciplinary Process.

**Sexual Assault:** An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

**Stalking:** The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to;

- a. Fear for his or her safety or the safety of others; or
- b. Suffer substantial emotional distress.

**Standard of evidence:** The standard of evidence in Title IX Sexual Harassment Policy is a preponderance of the evidence.

**Supportive Measures:** Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

### **Grievance Procedures:**

Both the person filing a complaint and the person accused of a violation of the Title IX Sexual Harassment Policy has certain rights in the College disciplinary process. The standard of evidence in Title IX Sexual Harassment Policy is a preponderance of the evidence.

**Access to resources:** Resources are listed in the Sexual Misconduct Policy. That policy is found in the MCC Catalog, MCC website, and MCC Policy & Procedure Manual.

**Hearing:** A live hearing will be utilized to make a determination of responsibility regarding an allegation under the Sexual Harassment Policy. Technology may be utilized during the live hearing in consideration of safety and/or social distancing. Before the hearing, parties will be given notice of the specific allegation or allegations, evidence to be presented, date, time, location or electronic access information, and any other information deemed appropriate by a college administrator, Title IX Coordinator, or Decision Maker(s).

**Access to advisor:** Each party (Complainant and Respondent) must have an Advisor present for the live hearing.

**Decision Maker(s):** will be designated by administration and/or the Title IX Coordinator. The Title IX Coordinator may be present for the live hearing, but cannot be a Decision Maker or Advisor.

**During the Hearing:** The Decision Maker(s) will moderate the proceeding. The Complainant, Respondent, and witnesses will have an opportunity to offer input as to the specifics of the alleged sexual harassment. The structure of the hearing will be conducted as follows:

- Advisors ask questions only after each question is approved by the Decision Maker(s).
- The other party's advisor may cross-examine the individual after initial questioning. As with the initial questioning, cross-examination questions must also be approved by the Decision Maker(s).
- After all questioning and items have been introduced for consideration, the Decision Maker(s) will decide if the Respondent is responsible concerning the allegation of sexual harassment. After the decision, the parties will be informed by the Vice President of Operations (or designee) within five business days of the decision.

### **Appeal(s):**

**Student:** In the event a student wishes to appeal the decision from the Title IX Sexual Harassment hearing, refer to the MCC Catalog for the Student Appeals procedure.

**Employee:** In the event an employee wishes to appeal the decision from the Title IX Sexual Harassment hearing, refer to the MCC Policy & Procedure Manual for the employee appeal process.

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