

TITLE IX: SEX/GENDER HARASSMENT, DISCRIMINATION AND MISCONDUCT

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SEX/GENDER HARASSMENT, DISCRIMINATION AND MISCONDUCT

INTRODUCTION

Mercer County Community College strives to offer an inclusively welcoming and nurturing college, focused on student engagement and success. In that effort and in compliance with Title IX requirements, the College does not discriminate on the basis of race, color, national origin, disability, age, and sex in its educational programs and activities. Members of the college community, guests and visitors have the right to be free from all forms of sex/gender harassment, discrimination and misconduct, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The college believes in zero tolerance for sex/gender-based misconduct. Zero tolerance means that when an allegation of misconduct is brought to an appropriate administrator's attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied, including serious sanctions when a responding party is found to have violated this policy.

The college's sex/gender harassment, discrimination and misconduct policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom. Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or that touch on academic exploration of matters of public concern.

The college uses the preponderance of the evidence (also known as "more likely than not") as a standard for proof of whether a violation occurred. In campus resolution proceedings, legal terms like "guilt," "innocence" and "burdens of proof" are not applicable, but the college never assumes a responding party is in violation of college policy. Campus resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

TITLE IX COORDINATOR

The college's Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination and misconduct policy. The Coordinator reports to the President of the College, and is housed in the Administrative Building office # AD 251. Questions and complaints regarding Title IX may be directed to the Title IX Coordinator or the Office of Civil Rights at the following locations and or contact information.

Marvin Carter
Director—Diversity, Equity, and Inclusion
Title IX Coordinator
1200 Old Trenton Rd. – MS 125
West Windsor, NJ 08550
Mail to: PO Box 17202, Trenton NJ 08690
Voice Phone: (609) 570-3407
Email: carterm@mccc.edu

Individuals experiencing harassment or discrimination also always have the right to file a formal grievance with government authorities:

Office for Civil Rights
U.S. Department of Education
32 Old Slip, 26th Floor
New York, NY 10005-2500
Telephone: (646) 428-3800
Facsimile: (646) 428-3843
Email: OCR.NewYork@ed.gov
Web: <http://www2.ed.gov/about/offices/list/ocr/index.html>

In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to:

Vice President for Human Resources 1200 Old
Trenton Rd. – AD Suite 254
West Windsor, NJ 08550
Mail to: PO Box 17202, Trenton NJ 08690

OVERVIEW OF EXPECTATIONS WITH RESPECT TO PHYSICAL SEXUAL MISCONDUCT

The expectations of our community regarding sexual misconduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Previous consent does not imply consent to sexual activity in the future. Silence or passivity -- without actions demonstrating permission -- cannot be assumed to show consent. Consent, once given, can be withdrawn at any time. There must be a clear indication that consent is being withdrawn.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. Under this policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "no."

OVERVIEW OF EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the faculty/staff handbooks. The college does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and

policies of the college. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student, supervisor-supervisee) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes Resident Advisors (RAs) and students over whom they have direct responsibility. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

SEXUAL MISCONDUCT OFFENSES INCLUDE, BUT ARE NOT LIMITED TO:

1. Sexual Harassment, [see OMB 965](#)
2. Non-Consensual Sexual Contact (or attempts to commit same)
3. Non-Consensual Sexual Intercourse (or attempts to commit same)
4. Sexual Exploitation

1. **SEXUAL HARASSMENT**

Sexual harassment is:

- unwelcome,
- sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct.

Anyone experiencing sexual harassment in any College program is encouraged to report it immediately to the Title IX Coordinator or a deputy. Remedies, education and/or training will be provided in response.

Sexual harassment may be disciplined when it takes the form of quid pro quo harassment, retaliatory harassment and/or creates a hostile environment.

A hostile environment is created when sexual harassment is:

- sufficiently severe, or
- persistent or pervasive, and
- objectively offensive that it:

- unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the college's educational [and/or employment], social and/or residential program.

Quid Pro Quo Harassment is:

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature
- By a person having power or authority over another constitutes sexual harassment when
- Submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational [or employment] progress, development, or performance.
- When submission to such conduct would be a condition for access to receiving the benefits of any educational [or employment] program.

Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence, stalking.

Some examples of possible Sexual Harassment include:

- A professor insists that a student have sex with him/her in exchange for a good grade. *This is harassment regardless of whether the student accedes to the request.*
- A student or employee repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender Explicit sexual pictures are displayed in a college offices
- Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in the class in discussions about their past sexual experiences, yet the conversation is not in any way relevant to the subject matter of the class. The professor might probe for explicit details, and demand that students answer, though they are clearly uncomfortable and hesitant.
- Male students take to calling a particular student "Stormy" because of her resemblance to Stormy Daniels. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about the president and "sexual relations".

Definitions

2. NON-CONSENSUAL SEXUAL CONTACT

Non-Consensual Sexual Contact is:

- any intentional sexual touching,
- however slight,
- with any object,
- by a person upon another person,
- that is without consent and/or by force.

Sexual Contact includes:

- Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- Any other intentional bodily contact in a sexual manner.

3. NON-CONSENSUAL SEXUAL INTERCOURSE

Non-Consensual Sexual Intercourse is:

- any sexual intercourse
- however slight,
- with any object,
- by a person upon another person,
- that is without consent and/or by force.

Intercourse includes:

- vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

4. SEXUAL EXPLOITATION

Occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another person;
- Non-consensual digital, video or audio recording of nudity or sexual activity;

- Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
- Engaging in voyeurism;
- Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch you having consensual sex);
- Knowingly exposing someone to or transmitting an STI, STD or HIV to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

- **Consent:**
 - clear, and
 - knowing, and
 - voluntary [or affirmative, conscious and voluntary],
 - words or actions,
 - giving permission for specific sexual activity.
- Consent is active, not passive.
- Silence, in and of itself, cannot be interpreted as consent.
- Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity.
- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.
- In order to give consent, one must be of legal age.
- Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this policy.
 - Incapacitation can occur mentally or physically, from developmental disability, by alcohol or other drug use, or blackout.
 - The question of what the responding party should have known is objectively based on what a reasonable person in the place of the responding party, sober and exercising good judgment, would have known about the condition of the reporting party.
 - Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
 - This policy also covers a person whose incapacity results from

mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of rape drugs. [Possession, use and/or distribution of any of these substances, including Rohypnol, Ketomine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student is a violation of this policy.

More information on these drugs can be found at <http://www.911rape.org/>.

- **Force:** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes free will or resistance or that produces consent (“Have sex with me or I’ll hit you. Okay, don’t hit me, I’ll do what you want.”).
 - Coercion is unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
 - NOTE: There is no requirement for a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.
- Use of alcohol or other drugs will never function to excuse any behavior that violates this policy.
- This policy is applicable regardless of the sexual orientation and/or gender identity of individuals engaging in sexual activity.

For reference to the pertinent state statutes on sex offenses, please see [Chapter 14, Sexual Offenses, N.J.S.A. 2C:14-2 \(Sexual assault\)](#)

OTHER MISCONDUCT OFFENSES

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of sex or gender;
3. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
4. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the college community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy);

5. Bullying, defined as
 - a. Repeated and/or severe
 - b. Aggressive behavior
 - c. Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally
 - d. That is not speech or conduct otherwise protected by the 1st Amendment.
6. Intimate Partner Violence, defined as violence or abuse between those in an intimate relationship to each other;
 - a. A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy is a violation of the Intimate Partner Violence policy.
 - b. An student shames another partner, threatening to 'out' them as queer if they don't get back together. Psychological abuse is a form of Intimate Partner Violence.
 - c. A student refuses to wear a condom and forces the partner to take hormonal birth control though it causes illness, in order to prevent pregnancy.
 - d. Married employees are witnessed in the parking garage, with one partner slapping and scratching the other in the midst of an argument.
7. Stalking
 - a. Stalking 1:
 - i. A course of conduct
 - ii. Directed at a specific person
 - iii. On the basis of actual or perceived membership in a protected class
 - iv. That is unwelcome, AND
 - v. Would cause a reasonable person to feel fear
 - b. Stalking 2:
 - i. Repetitive and Menacing
 - ii. Pursuit, following, harassing and/or interfering with the peace and/or safety of another
 - c. Examples of Stalking:
 - i. A student repeatedly shows up at another student's residence, always notifying the front desk attendant that they are there to see the resident. Upon a call to the resident, the student informs residence hall staff that this visitor is uninvited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus place of employment requesting that they go out on a date together. Stalking 1.
 - ii. A professor received flowers and gifts delivered to their office. After

learning the gifts were from a student they recently tutored, the professor thanked the student and stated that it was not necessary and would appreciate the gift deliveries to stop. The student started leaving notes of love and gratitude on the professor's car, both on-campus and at home. Asked again to stop, the student stated by email:

“You can ask me to stop, but I’m not giving up. We are meant to be together. I’ll do anything for you.” When the professor did not respond, the student emailed again, “You cannot escape me. I will track you to the ends of the earth. We are meant to be together.”
Stalking 2.

Other College policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party’s sex or gender.

RETALIATION

Retaliation is defined as:

- any adverse action
- taken against a person
- participating in a protected activity

because of their participation in that protected activity (subject to limitations imposed by the 1st Amendment and/or Academic Freedom). Retaliation against an individual for an allegation, for supporting a reporting party or for assisting in providing information relevant to an allegation is a serious violation of college policy.

SANCTIONS

The following sanctions may be imposed upon any member of the community found to have violated the Sex/Gender Harassment, Discrimination and Misconduct Policy. The following are the typical sanctions that may be imposed upon students or organizations singly or in combination:

Student Sanctions

- Warning
- Suspension
- Expulsion

Employee Sanctions

Employee sanctions may range from written or verbal warning to termination of

employment and will be carried out in accordance with contractual agreement where applicable.

- Warning – Written or Verbal
- Performance Improvement Plan
- Suspension without Pay
- Revocation of Tenure
- Termination

Sanctioning for Sexual Misconduct

- Any person found responsible for violating the Non-Consensual Sexual Contact policy (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous disciplinary violations.*
- Any person found responsible for violating the Non-Consensual Sexual Intercourse policy will likely face a recommended sanction of suspension or expulsion (student) or suspension or termination (employee).*
- Any person found responsible for violating the Sexual Exploitation or Sexual Harassment policies will likely receive a recommended sanction ranging from warning to expulsion or termination, depending on the severity of the incident, and taking into account any previous disciplinary violations.*

*The decision-making body reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the initial hearing officers nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

CONFIDENTIALITY, PRIVACY AND REPORTING

Confidentiality and Reporting of Offenses

All college employees (faculty, staff, administrators) are expected to immediately report actual or suspected discrimination or harassment to appropriate officials, though there are some limited exceptions. On campus, some resources may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to appropriate college officials - thereby offering options and advice without any obligation to inform an outside agency or individual unless a victim has requested information to be shared. Other resources exist for a victim to report crimes and policy violations and these resources will take action when an incident is reported to them.

The following describes the two reporting options at college:

Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- On-campus licensed professional counselors and staff
- On-campus members of the clergy/chaplains working within the scope of their licensure or ordination
- Athletic trainers
- Off-campus:
 - Licensed professional counselors
 - Local rape crisis counselors
 - Domestic violence resources,
 - Local or state assistance agencies,
 - Clergy/Chaplains

All of the above employees will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. Campus counselors and/or the Employee Assistance Program are available to help free of charge and can be seen on an emergency basis during normal business hours. These employees will submit timely yearly anonymous, aggregate statistical information every semester (Fall and Spring) for Clery Act purposes unless they believe it would be harmful to a specific client, patient or parishioner.

Formal Reporting Options

All college employees have a duty to report, unless they fall under the “Confidential Reporting” section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator and/or Deputy Coordinators. Employees must share all details of the reports they receive. Generally, climate surveys, classroom writing assignments, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Coordinator by employees. Remedial actions may result without formal college action.

If a victim does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the victim may make such a request to the Title IX Coordinator or Deputy Coordinators, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal

law. In cases indicating pattern, predation, threat, weapons and/or violence, the College will likely be unable to honor a request for confidentiality. In cases where the victim requests confidentiality and the circumstances allow the College to honor that request, the College will offer interim supports and remedies to the victim and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have reports taken seriously by the College when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to the: President, VP of Academics, VP of Operations, Executive Dean for Student Affairs, and Campus Security. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy.

Reports to the Title IX Coordinator can be made via email, phone, in person, or anonymously at the contact information below. Please click [here](#) to file a complaint.

Marvin Carter
Director—Diversity, Equity, and Inclusion
Title IX Coordinator
1200 Old Trenton Rd. – AD 225
West Windsor, NJ 08550
Mail to: PO Box 17202, Trenton NJ 08690
Voice Phone: (609) 570-3407
Email: carterm@mccc.edu

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex or gender harassment or discrimination of which they become aware, is a violation of these procedures and can subject to disciplinary action for failure to comply.

Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities - have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal

reporters include: student/conduct affairs, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

Federal Timely Warning Reporting Obligations

Victims of sexual misconduct should also be aware that college administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The college will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

Additional Provisions

a. Attempted violations

In most circumstances, college will treat attempts to commit any of the violations listed in the *Gender-Misconduct Policy* as if those attempts had been completed.

b. False Reports

College will not tolerate intentional false reporting of incidents. It is a violation of the [*Student Code of Conduct*] to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

c. Amnesty for Victims and Witnesses

The college community encourages the reporting of misconduct and crimes by victims and witnesses. Sometimes, victims or witnesses are hesitant to report to college officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that as many victims as possible choose to report to college officials, and that witnesses come forward to share what they know. To encourage reporting, college pursues a policy of offering victims of misconduct and witnesses amnesty from minor policy violations related to the incident.

Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, as student who has been drinking underage might hesitate to help take a sexual misconduct victim to the Campus Police). The college pursues a policy of amnesty for students who offer help to others in need. [While policy violations cannot be overlooked, the college will provide educational options, rather than punishment, to those who offer their assistance to others in need.

d. Parental Notification

The college reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The college may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the college will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The college also reserves the right to designate which college officials have a need to know about individual conduct reports pursuant to the Family Educational Rights and Privacy Act

QUESTIONS AND ANSWERS

Here are some of the most commonly asked questions regarding the college's sexual misconduct policy and procedures.

Does information about a report remain private?

The privacy of all parties to a report of sexual misconduct must be respected, except insofar as it interferes with the college's obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. The college will not disseminate information and/or written materials to persons not involved in the resolution process without the consent of both parties. Witnesses are also required to maintain the privacy of information shared with them during interviews and/or hearings. Violations of the privacy of the reporting party or the responding party may lead to conduct action by the college, though both parties are allowed to share their perspectives and experiences. All parties, including witnesses, involved in an allegation are strongly encouraged to maintain the privacy of information and/or written materials.

In all resolutions of sexual misconduct, all parties will be informed of the

outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain college administrators are informed of the outcome within the bounds of student privacy (e.g., the President of the college, Executive Dean of Student Affairs, VP for Academic Affairs, Director of Security). If there is a report of an act of alleged sexual misconduct to a conduct officer of the college and there is evidence that a felony has occurred, the victim will be offered assistance in reporting it to the local police. This does not mean charges will be automatically filed or that a victim must speak with the police. The institution also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an "Annual Security Report" of campus crime statistics. This statistical report does not include personally identifiable information.

Will my parents be told?

No, not unless you tell them. Whether you are the reporting party or the responding party, the College's primary relationship is to the student and not to the parent. However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents. College officials will directly inform parents when requested to do so by a student, in a life-threatening situation, or if an individual has signed the permission form at registration which allows such communication.

Will the responding party know my identity?

Yes, if the college determines there is reasonable cause to believe a violation has occurred and investigates the matter. The responding party has the right to know the identity of the reporting party.

Do I have to name the responding party?

Yes, if you want formal disciplinary action to be taken against the responding party. You can report the incident without the identity of the responding party, but doing so may limit the institution's ability to respond comprehensively.

What do I do if I am accused of sexual misconduct?

DO NOT contact the reporting party. You may immediately want to contact someone who can act as your advisor or advocate; anyone may serve as your advisor or advocate. You may also contact the Executive Dean of Student

Affairs, which can explain the college's procedures for addressing sexual misconduct reports. You may also want to talk to a confidential counselor or seek other community assistance. See below regarding legal representation.

Will I (as a victim) have to pay for counseling/or medical care?

No, if the services are provided by the college. If a victim is accessing community and non-college services, payment for these will be subject to state/local laws, insurance requirements, etc.

How is a report of sexual misconduct decided?

The college investigates allegations of sex/gender based harassment, discrimination or misconduct to determine whether there is evidence to indicate a policy violation is "more likely than not." This standard, called the preponderance of the evidence, corresponds to an amount of evidence indicating a policy violation is more than 50% likely.

What should I do about preserving evidence of a sexual assault?

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the Hospital Emergency Room, before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is usually on call 24 hours a day, 7 days a week (call the Emergency Room if you first want to speak to the nurse; ER will refer you). A student advocate from the college can also accompany you to Hospital and Security can provide transportation. If a victim goes to the hospital, local police will be called, but s/he is not obligated to talk to the police or to pursue prosecution. Having the evidence collected in this manner will help to keep all options available to a victim, but will not obligation him or her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.

For the Victim: the hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If

you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear evidence for the police to collect.

Area Hospitals:

Robert Wood Johnson University Hospital - Hamilton

1 Hamilton Health Place

Hamilton NJ 08690

Phone: 609.586.7900

Capital Health Medical Center – Hopewell

One Capital Way

Pennington, NJ 08534

Phone: 800.637.2374

Capital Health Regional Medical Center

750 Brunswick Avenue

Trenton, NJ 08638

Phone: 609.394.6000

University Medical Center of Princeton at Plainsboro

1 Plainsboro Road

Plainsboro, NJ 08536

Phone: 609.853.7000

Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?

No. The seriousness of sexual misconduct is a major concern and the college does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct. The college provides amnesty from any consequences for minor policy violations that occur during or come to light as the result of a victim's report of sexual misconduct.

Will the use of drugs or alcohol affect the outcome of a sexual misconduct conduct resolution?

The use of alcohol and/or drugs by either party will not diminish the responding party's responsibility. On the other hand, alcohol and/or drug use is likely to

affect the reporting party's memory and, therefore, may affect the resolution of the reported misconduct. A reporting party must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to prove that policy was violated. If the reporting party does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the responding party without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by a responding party.

Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present matter.

What should I do if I am uncertain about what happened?

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the institution's sexual misconduct policy, you should contact the institution's Title IX Coordinator (not confidential) or the college's licensed clinical counselor (confidential). The college also provides process advisors or advocates who can help you to define and clarify the event(s), and advise you of your options.

PROCEDURE FOR COMPLAINT RESOLUTION FOR DISCRIMINATION, SEXUAL AND GENDER HARASSMENT, SEXUAL MISCONDUCT AND SEXUAL VIOLENCE

I. PURPOSE

To provide a process for addressing complaints alleging all forms of sex discrimination; including sexual harassment, sexual assault and sexual violence against employees, students, and third parties.

II. POLICY

Mercer County Community College does not Discriminate on the basis of race, creed, color, national origin, ancestry, age, gender, affectional or sexual orientation, marital status, familial status, liability for service in the Armed Forces of the United States, nationality, political views, religion, disability unrelated to job or program requirements or any other characteristic protected by law.

III. PROCEDURES

A. Filing a Complaint or Report with the Title IX Coordinator

Individuals are encouraged to report any alleged violation of this policy directly to the Title IX Coordinator. In order to do so, individuals may use the [Title IX complaint form](http://www.mccc.edu/communication_form.shtml) found at the following URL link: http://www.mccc.edu/communication_form.shtml).

or schedule an appointment with the Title IX Coordinator.

Marvin Carter
Director—Diversity, Equity, and Inclusion
Title IX Coordinator
1200 Old Trenton Rd. – AD 225
West Windsor, NJ 08550
Mail to: PO Box 17202, Trenton NJ 08690
Voice Phone: (609) 570-3407
Email: carterm@mccc.edu

Anyone who believes he or she was retaliated against for filing a complaint under this policy, or for providing witness statements or participating in any other role regarding a Title IX matter may report it to the Title IX Coordinator.

B. Anonymous Reporting

If a complainant self-identifies but asks to remain anonymous during the investigation, the Title IX Coordinator will consider how to proceed, taking into account the complainant's articulated concerns; the best interests of the College community; fair treatment of all individuals involved, including the respondent's right to have specific notice of the allegations if the College were to take action that affects the respondent; and the College's obligations under Title IX. [Anonymous complaints](http://www.mccc.edu/communication_form.shtml) may be filed online via the following URL link: http://www.mccc.edu/communication_form.shtml).

C. Timeliness of Report

Complainants and other reporting individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the College's ability to respond promptly and effectively. Complaints and reports may be made at any time without regard to how much time has elapsed since the incident(s) in question.

If the respondent is no longer a student or employee at the time of the complaint or report, the College may not be able to take disciplinary action against the respondent, but it will still seek to meet its Title IX obligations by providing support for the complainant and taking steps to end the prohibited behavior, prevent its recurrence, and address its effects.

D. Impartiality of Decision Makers

The College is committed to handling all complaints as a neutral party and as such it

must ensure that there be no perceived or actual conflicts of interest between the parties and the decision makers assigned to the case. If either party, feels that the decision maker assigned to their case will not be impartial or has a conflict of interest, they may file an objection of the assignment to the Title IX Coordinator immediately upon discovery of facts leading to this conclusion.

E. Interim Measures

Upon receipt of a complaint or report of a violation of this policy, the College will provide reasonable and appropriate interim measures designed to preserve the complainant's educational experience, the safety of all parties and the broader College community, maintain the integrity of the investigative and/or resolution process, and deter retaliation. In order to comply with its obligations under Title IX, The College may be required to provide interim measures regardless of whether the complainant requests them or seeks formal disciplinary action. The College shall promptly inform complainants of the available interim measures.

Interim measures may include:

- Access to counseling services and assistance in arranging an initial appointment;
- Rescheduling of exams and assignments;
- Change in class schedule, including the ability to transfer course sections or withdraw from a course;
- Change in work schedule or job assignment;
- Change in campus housing;
- Providing medical services;
- Imposition of an on-campus "no contact order," an administrative remedy designed to curtail contact and communications between two or more individuals; and/or
- Any other remedy that can be used to achieve the goals of this policy.

Any interim measures will not disproportionately impact the complainant. Requests for interim measures may be made by or on behalf of the complainant to any College official, including the Title IX Coordinator. The Title IX Coordinator is responsible for ensuring the implementation of interim measures and coordinating the College's response with the appropriate offices on campus.

All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed by an interim measure. The College will take immediate action to enforce a previously implemented measure and disciplinary penalties can be imposed for failing to abide by a College-imposed measure.

F. Informal Process

The parties may seek an informal resolution with the assistance of a neutral party assigned by the Title IX Coordinator. The neutral party will be selected from a pool of trained individuals that may be selected to sit on disciplinary hearing panels utilized under procedures for formal complaints.

As soon as practical the Title IX Coordinator will designate a neutral party to explore the potential for informal resolution between the parties. If a resolution cannot be reached,

the neutral party will send the case back to the Title IX Coordinator for formal processing.

If the informal resolution is successful, the neutral party will communicate the outcome to the Title IX Coordinator. The Title IX Coordinator will document the incident and resolution of the matter.

In order to handle complaints informally, both the complainant and the respondent must agree to this process.

It is important to note that the complainant is not required to resolve or attempt to resolve their complaint/s directly or informally with respondent/accused parties.

The informal/mediation process will not be available to the parties in complaints involving sexual assault.

G. Investigations and Disciplinary Procedures in General for This Policy

The College is committed to providing a prompt and impartial investigation of all alleged violations of this policy. During the disciplinary process, both parties (complainant and respondent) have equivalent rights, including the opportunity to present evidence, to identify individuals who may possess relevant information and request that such individuals be interviewed, to be accompanied by an adviser of their choice, and to appeal. The College will inform all parties at regular intervals regarding the status of the complaint. The periodic updates will vary depending on the seriousness of the allegations. For example, the most serious allegations may require daily updates while less serious ones may require longer intervals. The College will concurrently provide both parties with written notification of the outcome of the process and any appeal.

1) Responsibility to Investigate

- a) In order to protect the safety of the campus community, the Title IX Coordinator may investigate allegations of violations of this policy even absent the filing of a formal complaint or report, or if a complaint or report has been withdrawn. The Title IX Coordinator may need to proceed with an investigation even if a complainant specifically requests that the matter not be pursued. In such a circumstance, the Title IX Coordinator will take into account the complainant's articulated concerns, the best interests of the College community, fair treatment of all individuals involved, and the College's obligations under Title IX. This policy differs from New Jersey criminal law.
- b) Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

2) Initial Assessment of Complaints

- a) The investigative process is initiated when the Title IX Coordinator receives a

complaint or report of a violation of this policy. The Title IX Coordinator will conduct an initial assessment. Following the initial assessment, the Title IX Coordinator may take any of the following actions:

- b) If the Title IX Coordinator determines that the complaint, even if substantiated, would not rise to the level of a policy violation, or, after consultation with the complainant about the complainant's preferences regarding participation, the Title IX Coordinator determines that there will be insufficient information to investigate the matter, the Title IX Coordinator may dismiss the complaint.
- c) If the Title IX Coordinator determines that the complaint is outside the scope of this policy, the Title IX Coordinator may refer the complaint to another office for review.
- d) If the Title IX Coordinator determines that the complaint or report would, if substantiated, constitute a violation of this policy, the Title IX Coordinator will determine appropriate interim measures and initiate an investigation.

3) Timing of Investigations and Any Related Disciplinary Proceedings

- a) The Title IX Coordinator will seek to complete the investigation and any resulting disciplinary process and provide notice of the outcome within 60 calendar days after receipt of the complaint or report. The College will seek to complete any appeal within 20 calendar days after receipt of the appeal.
- b) There may be circumstances that require the extension of timeframes for good cause, including extension beyond 60 calendar days. Timeframes may be extended to ensure the integrity and completeness of the investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, or accommodate delays by the parties; or for other legitimate reasons, including the complexity of the investigation and the severity and extent of the alleged misconduct. The College will notify the parties in writing of any extension of the timeframes for good cause, and the reason for the extension.
- c) Although cooperation with law enforcement may require the College to temporarily suspend the fact-finding aspect of a Title IX investigation, the College will promptly resume its Title IX investigation as soon as it is notified by the law enforcement agency that the agency has completed the evidence gathering process. The College will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide interim measures for the complainant.
- d) Investigations will proceed according to the aforementioned timeframes during the summer and at other times when the University is not in session. The Title IX Coordinator will work with the parties to balance the need for promptness and the preference for in-person meetings regarding the investigation.
- e) Timeframes for all phases of the disciplinary process, including the

investigation, any related disciplinary proceedings, and any related appeal, apply equally to both complainant and respondent.

4) Cooperation with Investigation and Disciplinary Procedures

- a) Mercer County Community College expects all members of the College community to cooperate fully with the investigation and disciplinary procedures. The College recognizes that an individual may be reluctant to participate in the process; nevertheless, any student or member of the faculty or staff who refuses to cooperate in an investigation may be subject to discipline. Refusal to cooperate includes delaying or failing to acknowledge requests from College officials for information, and delaying or failing to make oneself available for meetings with College officials.
- b) It is understood that there may be circumstances in which a complainant wishes to limit their participation. The complainant retains this right and will not be subject to discipline, although the College may be obligated to conduct an investigation.
- c) If a respondent chooses not to answer any or all questions in an investigation for any reason, the College process will continue, findings will be reached with respect to the alleged conduct, and the College will issue any penalties, as appropriate. The College will not, however, draw any adverse inference from a respondent's silence.

5) Sexual History

- a) The sexual history of the complainant and/or the respondent will generally not be used in determining whether a violation of this policy has occurred. However, in certain circumstances, the sexual history between parties may have limited relevance. For example, if consent is at issue, the sexual history between the parties may be relevant
- b) to determining whether consent was sought and given during the incident in question, although it must be remembered that even in the context of a relationship, consent to one sexual act does not constitute consent to another sexual act, and consent on one occasion does not constitute consent on a subsequent occasion. In addition, under very limited circumstances, sexual history may be relevant to explain injury, to provide proof of a pattern, or for another specific question raised by an allegation.

6) Consolidation of Investigation

- a) The Title IX Coordinator has the discretion to consolidate multiple complaints or reports into a single investigation if evidence relevant to one incident might be relevant to the others.

7) Violations of College Policy Unrelated to Sexual Misconduct

- a) In the situation when an initial assessment or investigation under this policy identifies additional related possible violations of College policy (other than violations of the Sex Discrimination and Sexual Misconduct policy) by the

same respondent(s) that would normally be handled by another disciplinary authority, the Title IX Coordinator, with the approval of that disciplinary authority, may direct an investigator and corresponding panel to investigate and adjudicate such other possible violations. In such a situation, the Title IX Coordinator and other disciplinary authorities will determine the procedures to be followed on consideration of the nature of the alleged violation(s) and other relevant factors. The standard of evidence applied to each violation will not be altered; the preponderance of the evidence standard will be applied as appropriate and the clear and persuasive evidence standard will be applied as appropriate.

8) Circumstances Relating to Misconduct Affecting Health or Safety

- a) In connection with this policy, in circumstances seriously affecting the health or well-being of any person, or where physical safety is seriously threatened, or where the ability of the College to carry out its essential operations is seriously threatened or impaired, the president or an authorized representative may summarily suspend, dismiss, or bar any person from the College. In all such cases, actions taken will be reviewed promptly, typically within one week, by the appropriate College authority.

H. Making a Criminal Complaint to Law Enforcement

At the complainant's request, the College will assist the complainant in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue the criminal process. The Office of Security and local police departments may be reached at the following phone numbers:

- Security Office (609) 570-3200
- Trenton Police Department (609) 989-4170
- West Windsor Police Department (609) 799-1222

I. Investigation, Disciplinary, and Appeal Procedures for Cases When the Respondent Is a Student

1. Investigation and Adjudication

- A. When the Title IX Coordinator receives a complaint or report alleging that a student violated this policy, the Title IX Coordinator will appoint an investigator. The investigator will conduct an inquiry and determine, by a preponderance of the evidence, whether this policy was violated. The investigator will have training in investigating and evaluating conduct prohibited under the policy. The investigator will also be impartial and unbiased. The investigator will interview the parties to the complaint separately. Each party may select an adviser of their choice who may accompany them to any meeting or related proceeding, but the adviser may not actively participate in the interview process. The investigator will interview witnesses as necessary. Witnesses may not bring advisers. At the conclusion of each interview, the investigator will review the notes with the interviewee.

The investigator will prepare a case file of all interview summaries, witness statements, and other documents. The file, redacted of personally identifiable

information as necessary, will be shared with the complainant and the respondent. The investigator will describe in writing for the parties the charges that will be investigated.

After reviewing the file, each party will have an opportunity:

- (1) meet again with the investigator,
- (2) respond in writing to the investigator,
- (3) request the collection of other information by the investigator, and
- (4) identify individuals who may possess relevant information (and request that such individuals be interviewed).

If any additional information is gathered, it will be shared with both parties and each will have the opportunity for further response. The investigator will designate reasonably prompt time frames to ensure a timely completion of the process but also an adequate opportunity for both sides to respond thoroughly to the information gathered in the investigation.

At the conclusion of the investigation, the investigator will prepare a report, which will include findings of fact, findings of responsibility, and the investigator's rationale. The investigator will determine whether the respondent, based on the preponderance of evidence standard, violated College policy

2. Penalties

- a. If a student is found responsible for violating College policy, the entire case file will be forwarded to the Associate Dean of Student Affairs who will determine the penalty.

Penalties will be determined based on the seriousness of the misconduct and the student's previous disciplinary history (if any). Remedial measures will be determined based on the need to afford the parties an educational environment free from discrimination under Title IX. The findings regarding fact and responsibility, as well as the decision regarding the penalty in cases where violations of College policy have occurred, will be conveyed to the parties at the same time in writing. The notification will include the parties' appeal rights.

If a student is found responsible for violating College policy, the Office of the Executive Dean of Student Affairs will record the penalty and retain records in accordance with protocols for all other disciplinary cases. In all cases, the case file will also be archived by the Title IX Coordinator.

3. Rights of Appeal

Both parties, the complainant and the respondent, have equal rights to an impartial appeal and to participate equally in the appeal process, even if the party is not the appealing party. All appeals will be referred to a three-person appellate body, which will be Chaired by the Executive Dean Of Student Affairs. All members of the appellate body will have training regarding Title IX and prohibited conduct defined under this policy. The members of the appellate body will be impartial and unbiased.

A complainant or respondent may file a written appeal on the grounds that: (1) there is substantial relevant information that was not presented, and reasonably could not have

been presented during the investigation; (2) the imposed penalty does not fall within the range of penalties imposed for similar misconduct, or (3) there was procedural unfairness during the disciplinary process.

The purpose of an appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of College rules has occurred. The appellate body may decide to uphold the original decision of the panel and/or the deans; to alter the imposed penalty; or to return the case to the panel for additional proceedings or other action. The deadline for filing an appeal is five business days from the date the parties are notified of the decision. If either party files an appeal, the Executive Dean of Student Affairs will notify the other party in writing. The Executive Dean of Student Affairs will serve as Chair for all appeals and will have primary responsibility for interactions with the parties, for the gathering of information needed for the appeal, and for notifying both parties in writing of the outcome of any appeal.

4. Student Enrollment

Pending action by the Associate Dean of Student Affairs and/or the Executive Dean of Student Affairs and panel on the charges or pending an appeal, the respondent may be permitted to attend classes, and make use of some or all College facilities, except for circumstances relating to the physical or emotional safety or well-being of a member (or members) of the College community, or the ability of the College to carry out its essential functions. Certain restrictions may be imposed on the respondent in order to provide the complainant with an educational environment free from discrimination under Title IX.

The respondent should understand that if the decision of the Associate Dean and/or the appeals panel chaired by the Executive Dean proves adverse, and if an appeal proves unsuccessful, the penalty will normally be considered effective as of the date of the original adjudicated decision. In cases adjudicated prior to the last day of classes, if the final decision is a separation from the College (i.e., suspension, suspension with conditions, or expulsion), the respondent will normally not earn credit for the semester in which the infraction occurred. If the case is adjudicated during reading or exam period or if the respondent has successfully completed course requirements while awaiting the final disposition of the matter, obtaining credit for the semester will be at the discretion of the Executive Dean.

Pending an investigation and adjudication or the respondent's decision about whether to appeal a separation from the College or the withholding of the degree, and/or while an appeal is in process, an administrative hold will be placed on the respondent's College transcript. Should the respondent decide not to appeal a separation or the withholding of the degree, or should an appeal not result in an alteration of the decision to dismiss the respondent or withhold the degree, the registrar will record the fact of the penalty on the respondent's transcript.

J. Investigation, Disciplinary, and Appeal Procedures for Cases When the Respondent Is a Faculty or Staff Member

1. Investigation and Adjudication

When the Title IX Coordinator receives a complaint or report alleging that a member of the faculty or staff violated this policy, the Title IX Coordinator will appoint an investigative panel of, at least, two administrators and/or outside investigators. The investigative panel will conduct an inquiry and determine, by a preponderance of the evidence, whether this policy was violated. All panelists will have training in investigating and evaluating conduct prohibited under this policy. The panelists will also be impartial and unbiased and will describe in writing for the parties, the charges that will be adjudicated.

The panel will interview the parties to the complaint separately. Each party may select an adviser of their choice who may accompany them to any meeting or related proceeding, but the adviser may not actively participate in the interview process. All members of the panel will participate in interviews with the complainant and the respondent. The panel will interview witnesses as necessary. Witnesses may not bring advisers. In all meetings, at least one member of the panel will serve as note taker. At the conclusion of each interview, the panelists will review their notes with the interviewee.

In the circumstance when the complaint is made by a member of the faculty or staff alleging a violation of this policy by another member of the faculty or staff, the panel will prepare a case file of all interview summaries, witness statements, and other documents. The panel will present both parties with a summary of the case file, after which each party will have an opportunity (1) to meet again with the panel, (2) to provide additional written information to the panel, and (3) to request the collection of other information by the panel, and (4) to identify individuals who may possess relevant information (and request that such individuals be interviewed). If any additional information is gathered, it will be shared with both parties and each will have the opportunity for further response. The panel will designate reasonably prompt time frames to ensure a timely completion of the process but also an adequate opportunity for both sides to provide thorough information in the investigation.

In the circumstance when the complaint is made by a student alleging a violation of this policy by a member of the faculty or staff, the panel will prepare a case file of all interview summaries, witness statements, and other documents. The file, redacted of personally identifiable information as necessary, will be shared with the complainant and the respondent. After reviewing the file, each party will have an opportunity (1) to meet again with the panel, (2) to respond in writing and (3) to request the collection of other information, and (4) to identify individuals who may possess relevant information (and request that such individuals be interviewed). If any additional information is gathered, it will be shared with both parties and each will have the opportunity for further response. The panel will designate reasonably prompt time frames to ensure both a timely completion of the process but also an adequate opportunity for both sides to respond thoroughly to the information gathered in the investigation.

Following the investigation, the panel will meet to determine whether the respondent, based on the preponderance of evidence standard, violated College policy. The panel will prepare a report, which will include findings of fact, findings of responsibility and the panel's rationale. All members of the panel must endorse the report as a record of their deliberations and rationale.

2. Penalties

The appropriate disciplinary authority based on the role of the respondent is as follows:

- If a faculty member is found responsible, the panel's report will be forwarded to the Vice President for Academic Affairs who will determine the appropriate penalty.
- If a staff member is found responsible, the panel's report will be forwarded to the staff member's vice president or executive dean, who will determine the appropriate penalty in consultation with the staff member's manager.

Penalties will be determined based on the seriousness of the misconduct as compared to like cases in the past, and on the individual's previous disciplinary history (if any). The findings regarding fact and responsibility as well as the decision regarding the penalty in cases where violations of College policies have occurred will be conveyed to the parties in person by the dean of the faculty or the vice president/executive dean or a designee as well as in writing. The notification will include the parties' appeal rights. In all cases involving sex discrimination or sexual misconduct, the case file will be archived by the Title IX coordinator.

3. Rights of Appeal

Both parties, the complainant and the respondent, have equal rights to an impartial appeal and to participate equally in the appeal process, even if the party is not the appealing party. A complainant or respondent may file a written appeal on the grounds that (1) there is substantial relevant information that was not presented, and reasonably could not have been presented during the investigation; or (2) there was procedural unfairness.

- Written appeals must be filed with the President's Office. The President will then assign two members from the President's Leadership Team to review and issue a determination regarding the appeal.

The purpose of an appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of College rules has occurred. The appellate authority may decide to uphold the original decision of the panel and/or disciplinary authority; to alter the imposed penalty; or to return the case to the panel for additional proceedings or other action. The appellate authority will have training regarding Title IX and prohibited conduct defined under this policy and will be impartial and unbiased.

The deadline for filing an appeal is one week from the date the parties are notified of the decision. If either party files an appeal, the other party will be notified. Both parties will be notified in writing of the outcome of the appeal.

K. Range of Penalties

Members of the College community may be subject to disciplinary penalties for violating this policy.

1. Additional Accommodations

If a respondent is found responsible for violating this policy, the complainant may request accommodations not already in place, such as a one-way no contact order. The College will promptly implement the accommodation as appropriate. In no circumstance will the burden of the accommodation be placed on the complainant. The accommodation shall be effective even if the respondent files an appeal or if such an appeal is pending.

2. Penalties Applicable to Students

For violations of this policy by students, in general the penalties, in ascending order of severity, are:

Warning: A formal admonition that does not become part of an individual's permanent record, but that may be taken into account in judging the seriousness of any future violation.

Disciplinary Probation: A more serious admonition assigned for a definite amount of time. It implies that any future violation, of whatever kind, during that time, may be grounds for suspension, suspension with conditions, or in especially serious cases, expulsion from the College. Disciplinary probation will be taken into account in judging the seriousness of any subsequent infraction even if the probationary period has expired.

Disciplinary probation appears on an individual's permanent record at the College (but not on the transcript) and may be disclosed by the Office of the Executive Dean of Student Affairs in response to requests for which the student has given permission or as otherwise legally required.

Withholding of Degree: In cases involving students in their final semester prior to graduation, the College may withhold a student's Mercer County Community College degree for a specified period of time. This penalty is imposed instead of suspension at the end of senior year or final year of study when all other degree requirements have been met. A withheld degree is recorded on a student's transcript. Relevant information remains on the student's permanent record at the College and may be disclosed by the Office of the Executive Dean of Student Affairs in response to requests for which the student has given permission or as otherwise legally required.

Suspension: Removal from the College for a specified period of time. A suspension is recorded on a student's transcript. Relevant information remains on the student's permanent record at the College and may be disclosed by the Office of the Executive Dean of Student Affairs in response to requests for which the student has given permission or as otherwise legally required.

Suspension with Conditions: Removal from the College for at least the period of time specified by the suspension, with the suspension to continue until certain conditions, stipulated by the appropriate body applying this penalty, have been fulfilled. These conditions may include, but are not limited to, restitution of damages, formal apology, or counseling. A suspension with conditions is recorded on a student's transcript. Relevant information remains on the student's permanent record at the College and may be disclosed by the Office of the Executive Dean of Student Affairs in response to requests for which the student has given permission or as otherwise legally required.

Expulsion: Permanent removal from the College, without any opportunity for readmission to the community. Expulsion is recorded on a student's transcript. Relevant information remains on the student's permanent record at the College and may be disclosed by the Office of the Executive Dean of Student Affairs in response to requests for which the student has given permission or as otherwise legally required.

The following may accompany the preceding penalties, as appropriate:

Restriction of Access to Space, Resources, and Activities: When appropriate in cases involving behavioral misconduct between members of the community, restrictions may be placed on access to space and/or resources or on participation in activities so as to limit opportunities for contact among the parties.

3. Penalties Applicable to Faculty and Staff Members

For violations of this policy by faculty or staff members, disciplinary penalties may include verbal warning, counseling or training, written warning, suspension, or termination.

4. Penalties Applicable to Non-Members of the College Community

For violations of this policy by non-members of the College community, disciplinary penalties may include being temporarily or permanently barred from the College or subject to other restrictions.