



MASSACHUSETTS COLLEGE *of* PHARMACY  
*and* HEALTH SCIENCES

# Resolution Process for Alleged Violations of Prohibited Sex-Based Harassment Involving Students and Retaliation

Pursuant to the Requirements of the 2024 Title IX Regulation

Office of Inclusion  
TitleIX@mcphs.edu

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**RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF PROHIBITED SEX-BASED HARASSMENT INVOLVING STUDENTS AND RETALIATION (Hereinafter the “Resolution Process”)**

**1. Overview**

MCPHS will act on any Notice, Complaint, or Knowledge of a potential violation of the Protection from Sexual Discrimination and Harassment Policy (“the Policy”) that the Title IX Coordinator or any other Mandated Reporter receives by applying the Resolution Process below.

The procedures below apply to all allegations of sex-based harassment involving students, and retaliation.

**2. Notice/Complaint**

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the Title IX Coordinator will initiate a prompt initial evaluation to determine MCPHS’ next steps. The Title IX Coordinator will contact the Complainant/source of the Notice to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

**3. Collateral Misconduct**

Collateral misconduct is defined to include potential violations of other MCPHS policies not incorporated into the Policy that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Title IX Coordinator may consult with MCPHS officials who typically oversee such conduct (e.g., Human Resources, Student Affairs, and Academic Affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of the Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the MCPHS Student Handbook, Employee Handbook, or Faculty Manual.

**4. Initial Evaluation**

The Title IX Coordinator conducts an initial evaluation typically within seven (7) business days of receiving Notice/Complaint/Knowledge of alleged misconduct.<sup>1</sup> The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.

- If the conduct does not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, it may then be referred to another process.
- Determining whether MCPHS has jurisdiction over the reported conduct, as defined in the Policy.
  - If the conduct is not within MCPHS jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate MCPHS office for resolution.
- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- Notifying the Complainant or the person who reported the allegation(s), of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
- Determining whether the Complainant wishes to initiate a Complaint.
- Notifying the Respondent of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.

### ***Helping a Complainant to Understand Resolution Options***

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Title IX Coordinator will help to facilitate the Complaint, which will include:

- Working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:
  - a supportive and remedial response, and/or
  - Informal Resolution, or
  - the Resolution Processes described below.

The Title IX Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

If the Complainant elects for the Resolution Process below, and the Title IX Coordinator has determined the Policy applies and that MCPHS has jurisdiction, they will provide the Parties with a written Notice of Investigation and Allegation(s) and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the Title IX Coordinator will assess whether the matter is suitable for Informal Resolution and refer the matter accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Title IX Coordinator), though the Complainant can elect to initiate one later, if desired.

### ***The Title IX Coordinator Authority to Initiate a Complaint***

If the Complainant does not wish to file a Complaint, the Title IX Coordinator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Title IX Coordinator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if MCPHS cannot ensure equal access without initiating a Complaint. The Title IX Coordinator will consider the following non-exhaustive factors to determine whether to file a Complaint:

- The Complainant's request not to initiate a Complaint.
- The Complainant's reasonable safety concerns regarding initiating a Complaint.
- The risk that additional acts of sex-based harassment would occur if a Complaint is not initiated.
- The severity of the alleged sex-based harassment, including whether the sex-based harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the sex-based harassment and prevent its recurrence.
- The age and relationship of the Parties, including whether the Respondent is an MCPHS employee.
- The scope of the alleged sex-based harassment, including information suggesting a pattern of ongoing sex-based harassment alleged to have impacted multiple individuals.
- The availability of evidence to assist the Title IX Coordinator or designee in determining whether sex-based harassment occurred.
- Whether MCPHS could end the alleged sex-based harassment and prevent its recurrence without initiating its resolution process.

If necessary, the Title IX Coordinator may consult with other MCPHS Officials and/or conduct a violence risk assessment to aid in determining whether to initiate a Complaint.

When the Title IX Coordinator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

## **5. Dismissal**

MCPHS **may** dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

- 1) MCPHS is unable to identify the Respondent after taking reasonable steps to do so
- 2) MCPHS no longer enrolls or employs the Respondent
- 3) A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator declines to initiate a Complaint
- 4) MCPHS determines the conduct alleged in the Complaint would not constitute a Policy violation if proven

A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, MCPHS will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, MCPHS will also notify the Respondent of the dismissal.

Any party can appeal this dismissal decision.

## **6. Appeal of Dismissal**

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

The Title IX Coordinator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Title IX Coordinator must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, MCPHS will:

- Implement dismissal appeal procedures equally for the Parties.
- Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint.
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal.
- Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

- 1) Procedural irregularity that would change the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was decided.

- 3) The Title IX Coordinator or designee had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Title IX Coordinator will share the petition with all other Parties and provide three (3) business days for other Parties and the Title IX Coordinator to respond to the request. At the conclusion of the response period, the Title IX Coordinator will forward the appeal, as well as any response provided by the other Parties, to the Dismissal Appeal Officer for consideration.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the Dismissal Appeal Officer will deny the request, and the Parties and the Title IX Coordinator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and the Title IX Coordinator of their decision and rationale. The effect will be to reinstate the Complaint.

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal, though extensions can be granted at the discretion of the Title IX Coordinator, and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

If needed, the Dismissal Appeal Officer may consult with the Title IX Coordinator, the MCPHS Chief Inclusion Officer and the MCPHS Compliance Team on questions of procedure or rationale for clarification. The Title IX Coordinator will maintain documentation of all such consultations.

## **7. Emergency Removal/Interim Suspension of a Student**

MCPHS may emergency remove a student accused of Sex-based Harassment upon receipt of Notice/Knowledge, a Complaint, or at any time during the Resolution Process. Prior to an emergency removal, MCPHS will conduct an individualized risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex-based harassment justifies such action.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected student will be notified of the action, which will include a rationale, and the option to challenge



the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Title IX Coordinator or designee will meet with the student as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal or interim suspension will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable for them to do so.

The Respondent may provide information, including witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title IX Coordinator for review.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

## **8. Placing an Employee on Leave**

When the Respondent is an employee or a student employee accused of misconduct in the course of their employment, existing provisions for interim action, such as placing the employee on administrative leave, are typically applicable instead of the above emergency removal process.

## **9. Advisors in the Resolution Process**

### **A. Who Can Serve as an Advisor?**

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings and interviews within the Resolution Process for Sex-based Harassment, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>1</sup>

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<sup>1</sup> “Available” means the party cannot insist on an Advisor who simply doesn’t have inclination, time, or availability. The Advisor cannot have institutionally conflicting roles, such as being an administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title IX Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

If a party requests that all communication be made through their attorney Advisor instead of to the party, MCPHS will refuse that request at the discretion of the Title IX Coordinator or designee and will continue to send all communications to the parties.

### **B. Advisor's Role in the Resolution Process**

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to ask and respond to questions on their own behalf throughout the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

### **C. Records Shared with Advisors**

Advisors are entitled to the same opportunity as their advisee to access and review relevant evidence, and/or the same written investigation report that accurately summarizes this evidence.

Advisors are expected to maintain the confidentiality of the records MCPHS shares with them, per Section 16 of the Policy addressing Confidentiality. Advisors may not disclose any MCPHS work product or evidence MCPHS obtained solely through the Resolution Process for any purpose not explicitly authorized by MCPHS.

Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). MCPHS may decline to share materials with any Advisor who has not executed the NDA and may restrict the role of any Advisor who does not respect the sensitive nature of the process or fails to abide by MCPHS' confidentiality expectations.

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also a witness in the process creates potential for bias and conflicts of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Title IX Coordinator.

#### **D. Advisor Expectations**

MCPHS generally expects Advisors to adjust their schedules to allow them to attend MCPHS meetings/interviews when planned, but MCPHS may change scheduled meetings/interviews to accommodate an Advisor's inability to attend if doing so does not cause an unreasonable delay.

MCPHS may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview by telephone, video conferencing, or other similar technologies.

All Advisors, whether attorneys or not, are subject to the same MCPHS policies and procedures. Advisors are expected to advise without disrupting proceedings.

#### **E. Advisor Policy Violations**

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with MCPHS' established rules of decorum, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview may be ended, or other appropriate measures may be implemented, including MCPHS requiring the party to use a different Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

### **10. Resolution Options Overview**

The MCPHS Resolution Processes consist of Informal Resolution or Administrative Resolution. Informal Resolution may be an option for matters involving sex-based harassment. These processes consider the Parties' preferences but are ultimately determined at the Title IX Coordinator's discretion.

Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with MCPHS Policy.

#### **A. Informal Resolution**

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator may offer the option to the Parties. MCPHS will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Before initiation of an Informal Resolution process, MCPHS will provide the Parties with a written NOIA that explains:

- The allegations.
- The requirements of the Informal Resolution process.
- That any party has the right to withdraw from the Informal Resolution process and initiate or resume MCPHS' Resolution Process prior to agreeing to a resolution.
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution Process will preclude the Parties from initiating or resuming the Resolution Process arising from the same allegations.
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties.
- What information MCPHS will maintain, and whether and how it could disclose such information for use in its Resolution Process.

MCPHS offers four categories of Informal Resolution:

- 1) **Supportive Resolution.** When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.
- 2) **Educational Conversation.** When the Title IX Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.
- 3) **Accepted Responsibility.** When the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and MCPHS are agreeable to the resolution terms.
- 4) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, facilitated dialogue, etc.), as described below.

The individual facilitating an Informal Resolution must be trained and cannot be the Title IX Coordinator serving as Investigator and Decision-maker, or an Appeal Decision-maker.

It is not necessary to pursue an Informal Resolution first in order to pursue an Administrative Resolution. Any party participating in an Informal Resolution can

withdraw from the Process at any time and initiate or resume the Administrative Process.

If an investigation is already underway, the Title IX Coordinator has the discretion to determine whether it will be paused, limited, or continued during the Informal Resolution process.

### Categories of Informal Resolution

#### **(1) Supportive Resolution**

The Title IX Coordinator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to MCPHS' education program and activity. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Title IX Coordinator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Title IX Coordinator does not initiate a Complaint.

#### **(2) Educational Conversation**

The Complainant(s) may request that the Title IX Coordinator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation or the Respondent's decision not to attend, the Title IX Coordinator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of the recurrence of any behaviors that may not align with Policy.

#### **(3) Accepted Responsibility<sup>2</sup>**

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<sup>2</sup> In Section 19 below, there is a description of a process to waive the decision-making step of the Resolution Process if a Respondent decides to admit to violating the charged Policies. That section and this one are similar, but there are meaningful differences. In this section, the Parties must agree to the resolution, and the Respondent in essence self-sanctions as part of the Informal Resolution by agreeing to voluntarily comply with whatever the terms are to which the Parties agree. Section 19, in contrast, is unilateral. Neither the Complainant nor the Title IX Coordinator determine eligibility. It is simply a waiver of steps in the process by the Respondent, who can admit violations and accept sanctions assigned by the MCPHS Decision-

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title IX Coordinator will refer the matter to an Informal Resolution facilitator who will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Informal Resolution Facilitator will determine whether all Parties and MCPHS are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of MCPHS Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the sex-based harassment, prevent its recurrence, and remedy the effects of the sex-based harassing conduct, both on the Complainant and the community.

#### **(4) Alternative Resolution**

The institution offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Title IX Coordinator or other appropriate MCPHS officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

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maker, if they choose to. No Complainant approval is sought or needed. Under Section 19, the outcome involves sanctioning imposed by MCPHS, rather than an agreement to self-sanction, as outlined in this section.

The Title IX Coordinator may consider the following factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be most successful for the Parties:

- The Parties' amenability to alternative resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed
- Skill of the alternative resolution facilitator with this type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in alternative resolution (e.g., time, staff)

The Title IX Coordinator has the authority to determine whether an alternative resolution is available or successful, to refer the matter to an Informal Resolution facilitator to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). The results of Complaints resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, MCPHS will initiate or continue an investigation and subsequent Resolution Process to determine whether the Policy has been violated.

## **B. Administrative Resolution Process (see Section 21 below)**

### **11. Resolution Processes Roles**

The Resolution Process relies on the Title IX Coordinator or trained designee to carry out the process.<sup>3</sup> The Title IX Coordinator is primarily responsible for the intake, investigation, and determination of responsibility stages in the resolution processes.

The Title IX Coordinator and trained designees are trained annually. The trained designees can serve in the following roles, at the discretion of the MCPHS:

- Investigators/Decision Makers
- Advisor to Parties
- Informal Resolution Facilitator
- Decision-maker for challenges to emergency removal and supportive measures
- Appeal of Dismissal Decision-maker
- Appeal Decision-maker

The Title IX Coordinator or trained designee, in consultation with MCPHS Officials, may, in limited circumstances, appoint other MCPS or external trained professionals to serve in these roles.

### **12. Notice of Investigation and Allegations (NOIA)**

Prior to an investigation, the Title IX Coordinator will provide the Parties with a NOIA. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations.

### **NOIA for Sex-Based Discrimination Matters involving Students and Employees and Sex-Based Harassment involving Employees**

The NOIA for Sex-Based Harassment Involving Students the NOIA must include:

- MCPHS Resolution Process
- Sufficient information available at the time to allow the parties to respond to the allegations including the names of the parties and the date and location of the alleged incident(s), if known;
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence

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<sup>3</sup> At MCPHS, the Title IX Coordinator conducts intakes and investigations, determines responsibility, and provides supportive measures.



- The name of the Title IX Coordinator or trained designee, along with a process to notify MCPHS of any conflict of interest the Title IX Coordinator or trained designee may have in advance of the interview process
- A statement that the MCPHS presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity to review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share MCPHS work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that the MCPHS's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Information on how a party may request disability accommodations or other support assistance during the Resolution Process
- A link to the MCPHS's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official MCPHS records, or emailed to the Parties' MCPHS-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

### **13. Resolution Timeline**

The MCPHS will make a good faith effort to complete the Resolution Process within 60-90 business days, including any appeals, which the Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, MCPHS reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

MCPHS may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. MCPHS will promptly resume its Resolution Process as soon as feasible. During such a delay, MCPHS will implement and maintain supportive measures for the Parties as deemed appropriate.

MCPHS action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

MCPHS will make a good faith effort to complete the Resolution Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

#### **14. Ensuring Impartiality**

Any individual materially involved in the Resolution Process, including the Title IX Coordinator or designee and any other individuals involved in the resolution process, such as Appeal Decision Makers, may neither have nor demonstrate a conflict of interest or bias for a party generally or for a specific Complainant or Respondent.

MCPHS will screen the Title IX Coordinator or trained designee, Appeal Decision-makers, and any other individuals materially involved in the Resolution Process for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and MCPHS will determine whether the concern is reasonable and supportable. If so, another person will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Chief Inclusion Officer.

The Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses to provide evidence, and to an investigation report that accurately summarizes this evidence. In addition, both parties would have the opportunity to provide relevant, permissible questions to the Title IX Coordinator to be asked to the other party(ies) and witnesses.

#### **15. Investigator Appointment**

Once an investigation is initiated, the Title IX Coordinator or trained designee will be responsible for conducting it. In limited circumstances, another properly trained internal or external professional may be appointed to conduct the investigation.

#### **16. Witness Role and Participation in the Investigation**

Employees (not including Complainant and Respondent) are required to cooperate with and participate in MCPHS' investigation and Resolution Process. Student witnesses and witnesses from outside the MCPHS community cannot be required to participate but are encouraged to cooperate with MCPHS investigations and to share what they know about a Complaint.

Interviews may be conducted in person or via online video platforms (e.g., Zoom, Microsoft Teams). MCPHS will take appropriate steps to ensure the security/privacy of remote interviews.

#### **17. Interview Recording**

It is not standard practice for Investigators to record interviews during the Resolution Process. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

The Title IX Coordinator or designee may record the meetings in which they post to parties or witnesses, the question provided by the parties. In those limited circumstances, both parties will receive transcripts of those meetings and the opportunity to review the recordings.

All involved persons in these recorded meetings should be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may pose their final questions to each other. Those subsequent meetings or interviews are also recorded and/or transcribed and shared with the Parties.

#### **18. Evidentiary Considerations**

The Title IX Coordinator or designee will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant Evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

Impermissible evidence includes:

- (1) Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

- (2) A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless MCPHS obtains that party's or witness's voluntary, written consent for use in the recipient's grievance procedures; and
- (3) Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

Information regarding previous disciplinary action of any kind may be considered in determining an appropriate disciplinary action/sanction upon a determination of responsibility.

### **19. Respondent Admits Responsibility**

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Title IX Coordinator or designee is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions in consultation with MCPHS Officials. This would waive the Respondent's right to appeal. If the Respondent rejects the finding/final determination/disciplinary actions/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion. The Complainant retains their right to appeal a determination when a Respondent admits responsibility.

### **20. Investigation**

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviewing relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information as necessary.

After an interview, Parties and Witnesses will be asked to verify the accuracy of the summary or transcript of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the transcript or summary will be deemed to have been waived, and no changes will be permitted.

MCPHS may consolidate Complaints against more than one Respondent or by more than one Complainant against one or more Respondents when the allegations arise from the same facts, collusion, and/or other shared or similar actions.

The Title IX Coordinator or trained designee typically takes the following steps, if not already completed and not necessarily in this order:

- Determine the identity and contact information of the Complainant.
- Identify all offenses implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- Conducts a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Prepare the initial NOIA. The NOIA may be amended with any additional or dismissed allegations.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.
- When the participation of a party is expected, notify that party of the date, time, and location of the meeting, as well as the expected participants and purpose.
- When possible, make good faith efforts to notify each party of any meeting or interview involving another party in advance.
- Interview the Complainant and the Respondent and conduct any necessary follow-up interviews with each.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes of the relevant evidence/testimony from their respective interviews and meetings.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses. Document which questions were asked with a rationale for any changes or omissions in the investigation report.
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.
- Prepare a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation, and party and witness interviews, and provides all relevant evidence.
- Provide the Parties the opportunity to review the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.
- The Title IX Coordinator or trained designee may share the investigation report with the MCPHS Chief Inclusion Officer and the MCPHS Compliance Team for their review and feedback.

## **21. Administrative Resolution Process**

The Administrative Resolution Process is used for all Complaints of sex-based harassment involving students or when Informal Resolution is either not elected or is unsuccessful.

During the MCPHS Administrative Resolution Process, the Title IX Coordinator or trained designee will conduct the investigation and determine responsibility.

The Administrative Resolution Process typically takes approximately thirty (30) business days to complete, beginning with the conclusion of the investigation.

### **Investigator-led Questioning Meetings – for Sexual Harassment Matters Involving Students**

- The Title IX Coordinator or trained designee provides the Draft Investigation Report to the Parties simultaneously for review.
- The Title IX Coordinator or trained designee will also ask each of the Parties to provide a proposed list of questions to ask the other Parties and any Witnesses.
  - To the extent credibility is in dispute and relevant to one or more of the allegations, questions proposed by the Parties may also explore credibility.
  - All party questions must be posed during this phase of the process and cannot be posed later unless authorized by the Title IX Coordinator or trained designee.
  - The Title IX Coordinator or trained designee will review all party-proposed questions to ensure all questions are both relevant and permissible.
- The Title IX Coordinator or trained designee will then hold individual meetings with the Parties and Witnesses to ask the questions proposed by the Parties that have been deemed relevant and not duplicative, including questions intended to assess credibility. These meetings will be recorded and transcribed.
  - For any question deemed irrelevant or duplicative, The Title IX Coordinator or trained designee will provide a rationale for not asking the question during the recorded meeting or in writing (typically as an appendix to the Final Investigation Report).
- Typically, within three (3) business days of the last of these meetings, the recordings or transcripts of them will be provided to the Parties for their review. The Parties will then have three (3) business days to review these recordings or transcripts and propose any follow-up questions for the Title IX Coordinator or trained designee to ask.
- The Title IX Coordinator or trained designee will review the proposed questions, to determine relevance and permissibility. If deemed necessary, the Title IX Coordinator or trained designee will then meet individually with the Parties or Witnesses for whom there are relevant and not duplicative and ask any follow-up questions. These follow-up meetings will also be recorded, and the Parties will receive the recordings or transcripts of these meetings. This final round of questioning is the last round permitted unless permission is granted to extend by the Title IX Coordinator or trained designee.
- The Title IX Coordinator or trained designee will then incorporate any new, relevant evidence and information obtained through the Parties' review of the Draft

Investigation Report, the questioning, and follow-up meetings into a Final Investigation Report.

- The Title IX Coordinator or trained designee will also respond in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report and incorporate relevant elements of the Parties' written responses, additional relevant evidence, and any necessary revisions into the Final Investigation Report.
- The Title IX Coordinator or trained designee will share the final report with the Chief Inclusion Officer for their review and feedback.

#### The Title IX Coordinator's/Designee's Determination

- The Title IX Coordinator will provide the parties access to the Final Investigation Report (FIR) and investigation file, including the evidence and information obtained through their led questioning meetings.
- The Title IX Coordinator or Designee will review the FIR, all appendices, and the investigation file.
- If the record is incomplete, the Title IX Coordinator/Designee may re-open the investigation, or conduct any additional inquiry necessary, including informal meetings with the Parties or any witnesses, if needed.
- Upon reviewing the relevant evidence, the Title IX Coordinator or Designee may also choose to pose additional questions:
  - To the extent credibility is in dispute and relevant to one or more of the allegations, the Title IX Coordinator or trained designee may meet individually with the parties and witnesses to question them in order to assess their credibility.
  - At their discretion, the Title IX Coordinator or trained designee may also meet with any party or witness to ask additional relevant questions that will aid them in making their findings.
- The Title IX Coordinator or trained designee will then apply the Preponderance of the evidence to make a determination on each of the allegations and, if applicable, any associated sanctions.
- **Timeline.** The Title IX Coordinator's or trained designee's determination process typically takes approximately ten (10) business days, but this timeframe can vary based on a number of factors and variables. The Parties will be notified of any delays.
- **Impact Statements.** Prior to a determination, the Title IX Coordinator or trained designee will also provide the Parties with an opportunity to submit a written impact and/or mitigation statement. The Title IX Coordinator or trained designee will review these statements after they have made determinations on the allegations. If there are any findings of a Policy violation, the Title IX Coordinator or trained designee will share the impact statements with the appropriate MCPHS Officials responsible for determining sanctions or disciplinary actions.
- If it is later determined that a party or witness intentionally provided false or misleading information, MCPHS will determine whether any additional action is necessary and

appropriate, including but not limited to referring that information to another process for resolution.

## **22. Disciplinary Actions/Sanctions**

Factors the MCPHS Officials may consider when determining sanctions and disciplinary actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/disciplinary actions to bring an end to the sex-based harassment, and retaliation
- The need for sanctions/disciplinary actions to prevent the future recurrence of sex-based harassment, and retaliation
- The need to remedy the effects of the sex-based harassment, and retaliation on the Complainant and the community
- The impact on the Parties
- The Respondent's acceptance of responsibility
- Any other information deemed relevant by the MCPHS Official(s)

The sanctions/disciplinary action will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions/disciplinary actions described in the Protection from Sex-Based Discrimination and Harassment Policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

### **A. Student Sanctions**

The following are the common sanctions that may be imposed upon students singly or in combination:

- *Reprimand*: A formal statement that the conduct was unacceptable and a warning that further violation of the policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either MCPHS-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Restrictions*: A student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or holding leadership roles in student organizations.



- *Probation*: An official sanction for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from extra-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Separation from the institution, or one or more of its facilities, for a defined period of time, typically not to exceed two (2) years, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the student is eligible to return if the institution determines it is appropriate to re-enroll/readmit the student. The student is typically required to vacate institutional property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Title IX Coordinator or other appropriate MCPHS official. During an institution-wide suspension, the student is banned from institutional property, functions, events, and activities unless they receive prior written approval from an appropriate MCPHS official. This sanction may be enforced with a trespass action, as necessary.
- *Expulsion*: Permanent separation from the institution. The student is banned from MCPHS property, and the student's presence at any institution-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary.
- *Withholding Diploma*: MCPHS may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for violating Policy.
- *Revocation of Degree*: While very rarely exercised, MCPHS reserves the right to revoke a degree previously awarded from MCPHS for fraud, misrepresentation, and/or other violation of MCPHS policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Other Actions*: In addition to or in place of the above sanctions, MCPHS may assign any other sanctions it deems appropriate.

## **B. Student Group and Organization Sanctions**

The following are the common sanctions that may be imposed upon student groups or organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any MCPHS policy, procedure, or directive will result in more severe sanctions/responsive actions.

- *Probation*: An official sanction for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of MCPHS funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student group or organization recognition and/or institutional support for a defined period of time not to exceed two (2) years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in MCPHS-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from MCPHS.
- *Expulsion*: Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Loss of Privileges*: Restricted from accessing specific MCPHS privileges for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, MCPHS may assign any other sanctions as deemed appropriate.

### **C. Employee Sanctions/Disciplinary Actions**

Responsive actions for an employee who has engaged in sex-based harassment, and retaliation involving a student include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Delay of (or referral for delay of) Promotion*
- *Assignment to a New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*

- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions: In addition to or in place of the above sanctions/responsive actions, MCPHS may assign any other responsive actions as deemed appropriate.*

### **23. Notice of Outcome**

Within seven (7) business days of the conclusion of the Resolution Process, not including any time for appeal, unless an extension for additional time is needed, the Title IX Coordinator or trained designee provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, the rationale for such determinations, and all applicable disciplinary actions/sanctions that MCPHS is permitted to share pursuant to state or federal law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals.

The Title IX Coordinator or trained designee will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address as indicated in official MCPHS records, or emailed to the Parties' MCPHS-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

### **24. Withdrawal or Resignation Before Complaint Resolution**

#### **A. Students**

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from MCPHS, the Resolution Process may continue, or the Title IX Coordinator or trained designee may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, MCPHS will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex-based harassment and retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, MCPHS will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sex-based harassment, and retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to MCPHS in any capacity until the Complaint is resolved and any sanctions

imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator has discretion to dismiss the Complaint. The Registrar, Office of Admissions, and HR may be notified, accordingly.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to MCPHS unless and until all sanctions, if any, have been satisfied.

## **B. Employees**

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent leaves their employment with MCPHS with unresolved allegations pending, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, MCPHS may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged sex-based harassment, and retaliation.

When an employee resigns and the Complaint is dismissed a note will be placed in the employee's file that they resigned with allegations pending.

## **25. Appeal of the Determination**

The Title IX Coordinator will designate an Appeal Decision-maker or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure challenge or dismissal appeal that may have been decided earlier in the process.

### **A. Appeal Grounds**

Appeals are limited to the following grounds:

- 1) A procedural irregularity that would change the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility was made.
- 3) The Title IX Coordinator or trained designee, Appeal Decision-maker(s), or MCPHS Officials had a conflict of interest or bias for or against complainants or respondents generally or the specific Complainant or Respondent that would change the outcome.

### **B. Request for Appeal**

Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the appeal decision-maker will deny the request, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the Request for Appeal meets the grounds in this Policy, then the Appeal Decision-maker will notify all Parties, the Title IX Coordinator or designee, and, when appropriate, MCPHS Official(s).

All other Parties, the Title IX Coordinator or trained designee, and, when appropriate, the MCPHS Official will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator or trained designee, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified accordingly, in writing.

No party may submit any new Requests for Appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

### **C. Appeal Determination Process**

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error. All decisions are made by the Preponderance of the evidence standard of proof.

An appeal is not an opportunity for the Appeal Decision-makers to substitute their judgment for that of the Title IX Coordinator or trained designee merely because they disagree with the finding.

The Appeal Decision-maker may meet with the parties and other persons involved in the investigation to gather additional information or ask clarifying questions. If needed, they may also consult with the Title IX Coordinator on questions of procedure or rationale for clarification. The Title IX Coordinator will maintain documentation of all such consultations.

#### **D. Appeal Outcome**

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the Title IX Coordinator or trained designee with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the Title IX Coordinator or trained designee, the Appeal Decision-maker may order a new investigation and/or a new determination with other internal- or external-trained professionals serving in the Investigator and Decision-maker roles.

A Notice of Appeal Outcome letter (“Appeal Outcome”) will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each appeal ground, any specific instructions for remand or reconsideration, and the rationale supporting the essential findings to the extent MCPHS is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties’ local or permanent address as indicated in official institutional records, or emailed to the Parties’ MCPHS-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the Appeal Outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision is changed on remand (except in the case of a new determination). When appeals result in no change to the finding, that decision is final. When an appeal results in a new finding, that finding can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the three (3) available appeal grounds.

## **E. Sanction/Disciplinary Actions Status During the Appeal**

Any sanctions/disciplinary actions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions/disciplinary actions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a “show cause” meeting on the justification for doing so must be permitted within two (2) business days of implementation.

## **26. Long-Term Remedies/Other Actions**

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or MCPHS community that are intended to stop sex-based harassment, and retaliation, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found.

When no Policy violation is found, the Title IX Coordinator will address any remedies MCPHS owes the Respondent to ensure no effective denial of educational access.

MCPHS will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair MCPHS’ ability to provide these services.

## **27. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms**

All Respondents are expected to comply with the assigned sanctions, disciplinary actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker, including the Appeal Decision-maker or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or for any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from MCPHS.

Supervisors are expected to enforce the completion of sanctions/disciplinary actions for their employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX Coordinator's satisfaction.

## **28. Recordkeeping**

For a period of at least seven (7) years following the conclusion of the Resolution Process, the MCPHS will maintain records of:

- 1) Each sex-based harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation.
- 2) Any disciplinary sanctions imposed on the Respondent.
- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to MCPHS' education program or activity.
- 4) Any appeal and the result therefrom.
- 5) Any Informal Resolution and the result therefrom.
- 6) All materials used to provide training to the Title IX Coordinator and trained designees (Investigators/Decision-makers), Appeal Decision-makers, Informal Resolution Facilitators, and any person who is responsible for implementing MCPHS' Resolution Process or who has the authority to modify or terminate supportive measures. MCPHS will make these training materials available for review upon request.
- 7) All materials used to train all employees consistent with the requirements in the Title IX Regulations.

The MCPHS will also maintain any and all records in accordance with federal and state laws.

## **29. Accommodations and Support During the Resolution Process**



## Disability Accommodations

MCPHS is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to MCPHS' Resolution Process.

Anyone needing such accommodations or support should contact the Title IX Coordinator, who will work with the Office of Student Access and Accommodations and Human Resources as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

## Other Support

MCPHS will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding the use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

## **30. Revision of these Procedures**

These procedures succeed any previous procedures addressing sex-based harassment involving students, and retaliation for incidents occurring on or after August 1, 2024. The Title IX Coordinator or trained designee, in consultation with the MCPHS Chief Inclusion Officer and the MCPHS Compliance Team, will regularly review and update these procedures.

MCPHS reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background federal and state laws that frame such policies and codes, generally.

These procedures are effective 08-01-2024.

## **APPENDIX A: DEFINITIONS**

The following definitions apply to the nondiscrimination on the basis of sex Policies and Procedures:

- **Advisor.** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- **the Title IX Coordinator.** The person with primary responsibility for overseeing and enforcing the nondiscrimination on the basis of sex Policies and Procedures. As used in these policies and procedures, the “the Title IX Coordinator” also includes their designee(s).
- **Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s), accordingly.
- **Complainant.** A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, retaliation, or Other Prohibited Conduct under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination or harassment or under the Policy and who was participating or attempting to participate in MCPHS’ education program or activity at the time of the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct.
- **Complaint.** An oral or written request to MCPHS that can objectively be understood as a request for MCPHS to investigate and make a determination about the alleged Policy violation(s).
- **Confidential Employee.**
  - An employee whose communications are privileged or confidential under federal or state law. The employee’s confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
  - An employee whom MCPHS has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, retaliation, or Other Prohibited Conduct. If the employee also has a duty not associated with providing those services, the employee’s confidential status only applies with respect to information received about discrimination, harassment, retaliation, or Other Prohibited Conduct in connection with providing those services; or
  - An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination,

harassment, retaliation, or Other Prohibited Conduct. The employee's confidential status only applies with respect to information received while conducting the study.

- **Day.** A Business Day when MCPHS is in normal operation. All references in the Policy to days refer to Business days unless specifically noted as calendar days.
- **Education Program or Activity.** Locations, events, or circumstances where MCPHS exercises substantial control over the context in which the discrimination, harassment, retaliation, and/or or Other Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that MCPHS officially recognizes.
- **Employee.** A person employed by MCPHS either full- or part-time, including student employees when acting within the scope of their employment.
- **Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.
- **Finding.** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a "finding of fact").
- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process.
- **Investigation Report.** The Investigator's summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The Title IX Coordinator or person(s) authorized by MCPHS to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, determine if a violation occurred, and compile this information into an Investigation Report.
- **Knowledge.** When MCPHS receives Notice of conduct that reasonably may constitute harassment, discrimination, retaliation, or Other Prohibited Conduct in its Education Program or Activity.
- **Mandated Reporter.** An MCPHS employee who is obligated by Policy to share Knowledge, Notice, and/or reports of sex discrimination, sex-based harassment, retaliation, and/or Other Prohibited Conduct with the Title IX Coordinator.<sup>4</sup>
- **Title IX Team.** The Title IX Coordinator, Chief Inclusion Officer, and any deputy coordinators

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<sup>4</sup> Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

- **Notice.** When an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of discriminatory, harassing, retaliatory, or Other Prohibited Conduct.
- **Parties.** The Complainant(s) and Respondent(s), collectively.
- **Pregnancy or Related Conditions.** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- **Protected Characteristic.** Any characteristic for which a person is afforded protection against discrimination and harassment by law or MCPHS Policy.
- **Relevant Evidence.** Evidence that may aid the Title IX Coordinator or designee in determining whether the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct occurred, or in determining the credibility of the Parties or witnesses.
- **Remedies.** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to MCPHS' Education Program and Activity.
- **Resolution Process.** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, Administrative Resolution, and/or Hearing Resolution.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute discrimination based on a protected characteristic, harassment, retaliation, or Other Prohibited Conduct for engaging in a protected activity under this Policy.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.
- **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- **Student.** Any person who has gained admission.
- **The Title IX Coordinator.** At least one official designated by MCPHS to ensure ultimate oversight of compliance with Title IX and MCPHS' Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the coordinator for specific tasks.

## **APPENDIX B: PRIVACY, PRIVILEGE, AND CONFIDENTIALITY**

For the purpose of this Policy, the terms *privacy*, *confidentiality*, and *privilege* have distinct meanings.

- **Privacy.** Means that information related to a complaint will be shared with a limited number of MCPHS employees who “need to know” in order to assist in providing supportive measures or evaluating, investigating, or resolving the Complaint. All employees who are involved in MCPHS’ response to Notice under this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with federal and state law.
- **Confidentiality.** Exists in the context of laws or professional ethics (including Title IX) that protect certain relationships, including clinical care, mental health providers, and counselors. Confidentiality also applies to those designated by MCPHS as Confidential Employees for purposes of reports under this Policy, regardless of legal or ethical protections. When a Complainant shares information with a Confidential Employee, the Confidential Employee does not need to disclose that information to the Title IX Coordinator. The Confidential Resource will, however, provide the Complainant with the Title IX Coordinator’s contact information, assist the Complainant in reporting, if desired, and provide them with information on how the Office of Inclusion can assist them. With respect to Confidential Employees, information may be disclosed when: (1) the reporting person gives written consent for its disclosure; (2) there is a concern that the person will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or persons with disabilities. Non-identifiable information may be shared by Confidential Employees for statistical tracking purposes as required by the Clery Act/Violence Against Women Act (VAWA). Other information may be shared as required by law.
- **Privilege.** Exists in the context of laws that protect certain relationships, including attorneys, spouses, and clergy. Privilege is maintained by a provider unless a court order release or the holder of the privilege (e.g., a client, spouse, parishioner) waives the protections of the privilege. MCPHS treats employees who have the ability to have privileged communications as Confidential Employees.

MCPHS reserves the right to determine which MCPHS officials have a legitimate educational interest in being informed about student-related incidents that fall under this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the Complaint. Information will be shared as necessary with Investigators, Decision-makers, Appeal Decision-makers, witnesses, the Parties, and the Parties’ Advisors. The circle of people with this knowledge will be kept as tight as possible to preserve the Parties’ rights and privacy, and release is governed by the institution’s unauthorized disclosure policy.

MCPHS may contact students' parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student prior to doing so.

## **APPENDIX C: 2024 TITLE IX OFFENSE REGULATORY DEFINITIONS**

### **1) Sexual Assault**

Any sexual act, including Rape, Sodomy, Sexual Assault with an Object, or Fondling directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also, unlawful sexual intercourse.<sup>5</sup>

#### **a. Rape:**

- Penetration,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
  - because of their age or
  - because of their temporary or permanent mental or physical incapacity

#### **b. Sodomy**

- Oral or anal penetration
- Of the Complainant by the Respondent
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
  - because of their age or
  - because of their temporary or permanent mental or physical incapacity

#### **c. Sexual Assault with an Object**

- Respondent's use of an object or instrument
- to unlawfully penetrate, however slightly, the genital or anal opening
- of the body of the Complainant,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
  - because of their age or
  - because of their temporary or permanent mental or physical incapacity

#### **d. Fondling:**

- The touching of the private body parts (breasts, buttocks, groin) of the Complainant by the Respondent
- or causing the Complainant to touch the Respondent's private body parts
- intentionally for a sexual purpose

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<sup>5</sup> This definition of sexual assault does not constitute a chargeable offense under the Policy. It is a description encompassing the six chargeable offenses listed below it.

- without the consent of the Complainant, including instances where the Complainant is incapable of giving consent
  - because of their age or
  - because of their temporary or permanent mental incapacity or physical incapacity.
- e. **Incest:**
  - Nonforcible sexual intercourse between persons who are related to each other
  - within the degrees wherein marriage is prohibited by Massachusetts or New Hampshire law.
- f. **Statutory Rape:**
  - Nonforcible sexual intercourse with a person
  - who is under the statutory age of consent of Massachusetts or New Hampshire.

## 2) Dating Violence:

- Violence<sup>6</sup> committed by a Respondent,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant; **and**
- where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - length of the relationship
  - type of relationship
  - frequency of the interaction between the Parties involved in the relationship.

## 3) Domestic Violence:

- Felony or misdemeanor crimes committed by a person who:
  - is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of Massachusetts or New Hampshire or a person similarly situated to a spouse of the Complainant;
  - is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
  - shares a child in common with the Complainant; **or**
  - commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of Massachusetts or New Hampshire.

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<sup>6</sup> For purposes of this Policy, violence is defined as intentionally or recklessly causing the Complainant physical, emotional, or psychological harm. Legitimate use of violence for self-defense is not chargeable under this Policy because the purpose is safety, not harm. Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.



#### 4) Stalking:

- engaging in a course of conduct<sup>7</sup> on the basis of sex, that is,
- directed at a specific person that would cause a reasonable person<sup>8</sup> to:
  - fear for the person's safety, or
  - the safety of others; or
  - suffer substantial emotional distress.<sup>9</sup>

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<sup>7</sup> For purposes of this definition, "A 'course of conduct' requires that there be more than one incident and the conduct must be directed at a specific person. Stalking can occur in person or using technology, and the duration, frequency, and intensity of the conduct should be considered. Stalking tactics can include, but are not limited to, watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks. (Federal Register, Vol 89, No. 83, 04/29/2024, p. 33523). Merely annoying conduct, even if repeated, is a nuisance, but is not typically chargeable as stalking.

<sup>8</sup> Reasonable person is an objective standard meaning a person in the Complainant's shoes (having similar characteristics/demographics to the Complainant).

<sup>9</sup> In the context of stalking, a Complainant is not required to obtain medical or other professional treatment, and counseling is not required to show substantial emotional distress.