

## MCPHS UNIVERSITY

### Sexual Harassment Resolution Process

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## I. Overview

MCPHS University (MCPHS or the University) prioritizes creating and sustaining a climate of inclusive excellence, as it is vital to our collective success and commitment to a thriving, engaged community.

This Resolution Process applies only to qualifying allegations of Title IX Sexual Harassment (including sexual assault, dating violence, domestic violence, and stalking involving students and employees, as defined in the [MCPHS Protection from Sexual Harassment \(Title IX\) Policy](#)).

If dismissal occurs under this resolution process, please see [the MCPHS Protection from Discrimination and Harassment Policy](#) for a description of the procedures for resolving other discrimination and harassment offenses.

[The MCPHS Protection from Discrimination and Harassment Policy](#) also applies to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within the [Sexual Harassment Resolution Process](#) and concerns of retaliation raised through this process, as determined by the Title IX Coordinator.<sup>1</sup>

This Procedure provides for promptly and equitably resolving such complaints in compliance with the 2020 Title IX regulations, Massachusetts and New Hampshire law, and the [MCPHS Protection from Sexual Harassment \(Title IX\) Policy](#).

MCPHS also prohibits other forms of sexual misconduct, retaliation, and discrimination, including sex-based discrimination and harassment, as defined in the [Protection from Discrimination and Harassment Policy](#) and other applicable university policies, as federal and state law requires. Resolution Processes for addressing such forms of discrimination and harassment may be found in the [MCPHS Student Handbook](#) for concerns regarding student violations, the MCPHS Protection from Discrimination and Harassment Policy, the [MCPHS Faculty Manual](#), and the [MCPHS Employee Handbook](#) for all other such concerns.<sup>2</sup>

Questions about this Resolution Process, the [MCPHS Protection from Sexual Harassment \(Title IX\) Policy](#), and other related MCPHS policies and procedures may be referred to the MCPHS Title IX Coordinator or the Office of Community Engagement. See the contact information in [Section IV](#) of this document.

Additional information and a list of support resources on and off campus are available [here](#).

## II. Definitions

Key Definitions applicable to the [MCPHS Protection from Sexual Harassment \(Title IX\) Policy and this resolution process are included in Sections 5, 16, and 17 of the MCPHS Protection from Sexual Harassment \(Title IX\) Policy](#).

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<sup>1</sup> Throughout this document, a reference about the Title IX Coordinator includes the Title IX Coordinator or a designee.

<sup>2</sup> The University's resolution process relating to sexual harassment, as defined by the 2020 Title IX Regulations, is emailed annually to all members of the MCPHS community.

### III. Jurisdiction

This Resolution Process applies to allegations of Sexual Harassment as defined in the [MCPHS Protection from Sexual Harassment \(Title IX\) Policy](#) when the allegations of Sexual Harassment occur in a university's education program or activity against a person in the United States. This includes allegations of Sexual Harassment that occurred:

1. On property owned or controlled by the university or property owned or controlled by a student organization that is officially recognized by the university or
2. At locations or events involving circumstances over which the university exercised substantial control over the Respondent and the context in which the Sexual Harassment occurred.

### IV. Filing a Formal Complaint of Sexual Harassment

The MCPHS Protection from Sexual Harassment (Title IX) Policy prohibits sexual harassment. Sexually harassing behavior should be reported in accordance with this resolution process to provide immediate supportive measures to both parties, resolution options for the Complainant, and, whenever possible, to prevent any recurrence.

The Complainant is encouraged, but not required, to report sexually harassing behavior to the Title IX Coordinator or a university Official with Authority<sup>3</sup>, or by completing the online [Sexual Harassment Reporting Form](#). University Officials with Authority are required to report possible Sexual Harassment of which they have knowledge to the Title IX Coordinator.

The following information is provided to determine to whom individuals may wish to report or to whom they must report based on their roles and needs.

If a person chooses to file a formal complaint, they are encouraged to do so as soon as possible.

[If an MCPHS community member has not decided at this time to file a formal complaint](#)

Choosing to make a report and whether to file a formal complaint can be a process that unfolds over time. A person does not have to decide whether to pursue a formal complaint or disclose the other party's name when they share their concerns. Reporting does not mean they wish to pursue a formal complaint -- it may mean they would like help accessing resources and supportive measures. They do not have to file a formal complaint to utilize the available supportive measures.

To ask questions about how to file a formal complaint or to learn more about this Resolution Process, you may contact the Confidential Resource Provider or the Title IX Coordinator. Contact information for the Title IX Coordinator and the Confidential Resource Provider are listed below and in Section 9 (A), Administrative Contact Information of the [MCPHS Sexual Harassment \(Title IX \) Policy](#).

A person may file a report of a concern anonymously using the online [MCPHS Sexual Harassment Reporting Form](#), which does not require the reporter to input their name. Please note that anonymous

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<sup>3</sup> MCPHS considers the following employees officials with authority: all University Officers, Academic Deans and Program Directors, Academic and Administrative Department Heads, and the Title IX Coordinator.

reporting limits the university's ability to respond or pursue appropriate action against the Respondent. An anonymous online report is not considered filing a formal complaint under this Resolution Process.

For confidential conversations, individuals may speak to Counseling Services or the MCPHS Confidential Resource Provider. Also, the Confidential Resource Provider and the Title IX Coordinator can provide information about options, rights, and resources. If they share their concerns with a Title IX Coordinator or an Official with Authority, their concern cannot be kept confidential. Officials with Authority are required to report potential concerns of Sexual Harassment to the Title IX Coordinator. An anonymous online report submitted by an Official with Authority does not fulfill the requirement to notify the Title IX Coordinator of potential Sexual Harassment concerns.

#### A. Filing a formal complaint of Sexual Harassment

Who may file, and timeframe:

If individuals are participating in or attempting to participate in an education or employment program or activity at the university as an employee and/or student, they may file a formal complaint of Sexual Harassment with the Title IX Coordinator.

How to file:

1. An individual initiates the complaint process by submitting a written complaint to the Title IX Coordinator (see contact information below). The complaint may be submitted by email, in person, by mail, or by using the online [Sexual Harassment Reporting Form](#). The complaint must be filed in writing, including all known information relevant to the alleged violation, including the Complainant's name, student status or employee title, and contact information; the name of the person(s) alleged to have violated the policy, their student or employee status if known; the date(s), time(s), and location(s) of the alleged occurrence(s); the names and contact information for any witnesses of the alleged occurrence(s); a detailed description of the occurrence(s); a list of relevant supportive documentation; and a statement indicating whether the concern has already been reported to anyone else, and if so, to whom.
2. The MCPHS Title IX Coordinator will contact the complainant to schedule a meeting, which is required for formal complaints. A formal complaint is not completed until an individual meets with the Title IX Coordinator. The Complainant must submit a signed complaint as quickly as possible. The Complainant may indicate any sanction or remedy sought, if relevant. However, the university, not the person bringing the concern/complaint, determines sanctions and remedies.

To ask questions about how to file a formal complaint or to learn more about the Resolution Process, you may contact the MCPHS Confidential Resource Provider or the MCPHS Title IX Coordinator. The contact information for the Title IX Coordinator and the Confidential Resource Provider are listed below and available on the [MCPHS Title IX](#) page.

#### **MCPHS Title IX Coordinator:**

Rachel Andoscia  
179 Longwood Ave.  
Boston, MA 02115  
617.732.1048  
[rachel.andoscia@mcphs.edu](mailto:rachel.andoscia@mcphs.edu)  
[TitleIX@mcphs.edu](mailto:TitleIX@mcphs.edu)

**MCPHS Confidential Resource Provider:**

Dawn Ballou  
179 Longwood Ave.  
Boston, MA 02115  
617.732.2077  
[dawn.ballou@mcphs.edu](mailto:dawn.ballou@mcphs.edu)

**Chief Community Engagement Officer:**

Clara Ivonne Orlando  
Office of Community Engagement  
10 Lincoln Square  
Worcester, MA 01608  
617.751.3016  
Email: [Clara.Orlando@mcphs.edu](mailto:Clara.Orlando@mcphs.edu)

Information shared as required:

Please note that if a Complainant files a formal complaint, the university must provide relevant information to the Respondent in writing before an interview. The Title IX Coordinator, Investigator(s), and Hearing Officers<sup>4</sup> will maintain the privacy of the concern to the greatest extent possible while complying with the requirement to conduct the resolution process in a manner consistent with state and federal laws. The university will need to determine what occurred to resolve the situation. During the process, the identities of the parties will not be disclosed except as necessary to conduct the process. The university has the responsibility to respond to concerns to the extent possible. For this reason, only the Confidential Resource Provider or others, such as counselors, with a legal privilege to do so, can keep confidentiality.

Right, but not a requirement to also file elsewhere:

Filing a sexual harassment complaint does not, in any way, waive or deprive an individual of the right to report an incident to campus, local, or state law enforcement<sup>5</sup> or an external federal or state agency. Complainants may, but are not required to, notify law enforcement authorities of alleged sexually harassing conduct. The university encourages complainants to notify both the Title IX Coordinator and law enforcement when sexually harassing conduct that may also be criminal occurs.<sup>6</sup> However, no individual who files a complaint or reports an incident of unlawful sexual harassment with MCPHS shall be required to report it to law enforcement or any outside agency unless they choose to do so. Law enforcement's contact information is below.

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<sup>4</sup> Throughout this document, a reference about the Hearing Officer includes the Hearing Officer or Chair (when a panel conducts the live hearing). At times, the hearing officer(s) is also referred to as Decision Maker(s)

<sup>5</sup> Upon request, the MCPHS Public Safety Department may assist students or employees in filing such a complaint or seeking a court protective order.

<sup>6</sup> MCPHS complies with Massachusetts General Law in recognizing Abuse Prevention Orders (209A) and Harassment Prevention Orders (258E), and the State of New Hampshire regulations, including (RSA) 173-B, and directs any person who obtains an order of protection from domestic or dating abuse, harassment, stalking, or sexual assault from any state in the country to provide a copy to the MCPHS Public Safety and the Title IX Coordinator. A Complainant may then meet with an officer from the MCPHS Public Safety to develop a Safety Action Plan, which is a plan for Public Safety and the complainant to reduce the risk of harm while on campus or coming and going from campus. This plan may include but is not limited to, the temporary measures listed in this document. To apply for a legal Abuse Prevention Order, no contact or restraining order, the person seeking it must apply directly with the appropriate governmental office.

## **MCPHS Public Safety**

In the case of a life-threatening emergency, please dial 911.

All Other Emergencies:

Boston: 617.732.2900 | On-campus x2900  
Manchester: 603.314.1771 | On-campus 603.314.0210  
Worcester: 508.373.5800 | On-campus x2222

### **Local Law Enforcement**

#### **Boston Police Department B-2**

2400 Washington Street  
Roxbury, Ma.  
02119

Phone: # 617-343-4270  
Emergency # 911

[www.police.boston.gov/districts/](http://www.police.boston.gov/districts/)

#### **Boston Police Headquarters**

One Schroeder Plaza  
Boston, MA. 02120  
Phone: 617-343-4633  
Emergency # 911

<https://police.boston.gov/districts/>

#### **Manchester Police Department**

405 Valley Street  
Manchester, NH 03103  
Phone: 603-668-8711

<https://www.manchesternh.gov/Departments/Police>

#### **Worcester Police Department**

Police Headquarters  
9-11 Lincoln Square  
Worcester, MA 01608  
Emergency: 911  
Phone: 508-799-8600  
Fax: 508-799-8680

Concerns about MCPHS' application of this Policy and compliance with certain federal and state civil rights laws, including but not limited to Title IX of the Educational Amendments of 1972 and pertinent laws, regulations, the Commonwealth of Massachusetts Chapter 337 of the Acts of 2020—also known as the 2021 Campus Sexual Assault Law and the State of New Hampshire State Statute RSA 188-H:4, may also be addressed:

If a complainant has filed a Title IX formal complaint with MCPHS, the complainant has the option to (1) withdraw their formal complaint from the MCPHS Sexual Harassment Resolution Process at any time and to file a complaint with an external agency such as those listed below or another anti-discrimination agency; or (2) the complainant may continue with their formal complaint at MCPHS while

simultaneously filing a complaint with an outside agency. Depending on the circumstances, MCPHS may continue reviewing the initially alleged incidents even if the Complainant withdraws their formal complaint.

**External enforcement agencies:**

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <https://www.ed.gov/about/ed-offices/ocr>

Office for Civil Rights (OCR) Boston Office  
8th Floor, 5 Post Office Square Boston, MA, 02109-3921  
Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)  
U.S. Department of Health and Human Services Office for Civil Rights New England Region  
Government Center, J.F. Kennedy Federal Building - Room 1875 Boston, MA, 02203  
Email: [ocrmail@hhs.gov](mailto:ocrmail@hhs.gov)

***For Complaints involving employee-on-employee conduct:***

Equal Employment Opportunity Commission (EEOC)  
<https://www.eeoc.gov/>  
EEOC Regional Office  
John F. Kennedy Federal Building, 15 New Sudbury Street, Room 475 Boston, MA, 02203  
<https://www.eeoc.gov/field-office/boston/location>

Massachusetts Commission Against Discrimination (MCAD)  
Boston Office  
One Ashburton Place, Sixth Floor, Room 601 Boston, MA 02108  
(617) 994.6000  
<https://www.mass.gov/orgs/massachusetts-commission-against-discrimination>

Worcester Office  
455 Main Street, Room 101  
Worcester, MA 01608  
(508) 779-8010  
<https://www.mass.gov/orgs/massachusetts-commission-against-discrimination>

The New Hampshire Commission of Human Rights Intake Department 2 Industrial Park Drive,  
Concord, NH 03301(603) 271-2767  
<https://www.humanrights.nh.gov/>

V. Reporting Requirement for Officials with Authority

All Officials with Authority are required to report all Sexual Harassment concerns to the Title IX Coordinator. (See contact information in [Section IV](#))

## Officials with Authority:

1. Are required to report possible sexual harassment. Officials with Authority must promptly report the incident of concern, including all relevant details, including the names of all persons involved and relevant facts regarding the alleged incident (including the date, time, and location of the event related to the concern) directly to the Title IX Coordinator. Officials with Authority must make these reports even if the reporting person requests confidentiality and regardless of whether a police report has been filed. Officials with Authority must report any minor's abuse to the MCPHS Public Safety Department, the local police department, or the Massachusetts Department of Children and Families, per M.G.L. 119, section 51A, or the New Hampshire Division for Children, Youth and Families (DCYF).
2. Cannot guarantee confidentiality. The university has a responsibility to respond to formal complaints to the extent possible. Keeping a concern confidential would prevent the university from fully investigating and responding to the complaint. MCPHS may review the complaint to end Sexual Harassment, preventing its recurrence and remedying its effects. For these reasons, confidentiality cannot be assured. Only Confidential Employees can provide confidentiality. However, privacy will be maintained to the extent possible while complying with the requirements of university policies and state and federal law.

## VI. Rights and Expectations for the Parties and Witnesses

### A. Rights

**Accommodations:** Any party, witness, or other participant involved in any process related to this procedure may request a reasonable accommodation based on a medical reason under the Americans with Disabilities Act by contacting the [Office of Student Access and Accommodations](#) (students) or [Human Resources](#) (employees).

**Confidential Resource Provider:** Complainants and Respondents have the right to engage in confidential discussions with the MCPHS Confidential Resource Provider to receive assistance and information, whether or not they file a complaint.

**Advisors:** Both parties are welcome to have an advisor of their choice who is eligible and available<sup>7</sup> during all stages of the resolution process. The Title IX Coordinator will also offer to assign a trained Advisor to any party for the live hearing. Parties also have the right to choose not to have an Advisor in the initial stages of the Resolution Process before a hearing. The advisor may only act in an advisory capacity for the party and may not speak on behalf of the person or otherwise participate during the investigation. During meetings, the party will have the opportunity to take a break and confer with the advisor. If authorized by the party, the advisor may review evidence gathered during the investigation, the investigator's report, and other communications. The advisor is prohibited from disseminating the evidence and/or investigator's report without both parties' written consent. Because the advisor will review personally identifiable information from the complainant's and respondent's education records, the parties need to consent, in writing, to the disclosure of this information to the advisor in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 USC § 1232g; 34 CFR Part 99. The

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<sup>7</sup> Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

consent would specify that the information may only be used for the resolution process and cannot be further disclosed. FERPA is a federal law that protects the privacy of student education records. During the Live Hearings, the advisor will be responsible for posing questions to the parties and witnesses during cross-examination. There are certain limitations on the questions that may be asked. For more information, please see [Section X, Formal Resolution - Live Hearing](#).

***Scheduling:*** The parties will be provided with a written notice of the date, time, location, and participants of all hearings, investigative interviews, or other meetings with sufficient time to prepare to participate.

***Gathering information and ascertaining your rights:*** The Investigator(s), Title IX Coordinator, Hearing Officer(s), Appeal Officer(s), or other decision-makers will not restrict the ability of either party to discuss the allegations under investigation and gather and present relevant evidence, except as is provided by this Resolution Process, the MCPHS Protection from Sexual Harassment (Title IX) Policy, and other university policies. For example, a party may not discuss the allegations in a retaliatory manner or knowingly present false evidence. Also, parties and witnesses may discuss the process for the purpose of ascertaining their rights regarding the matter.

***Privacy:*** The Investigator(s), Title IX Coordinator, and other employees involved in the resolution process will maintain both parties' privacy and protect the process's integrity to the extent possible. While information is only divulged on a need-to-know basis, confidentiality cannot be ensured.

***Neutrality:*** All MCPHS and external Investigators, Hearing Officers, and Appeal Officers involved in the Resolution Process will conduct a neutral and unbiased review of the formal complaint and give equal consideration to the accounts and documentation provided by both parties. The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Resolution Process. Parties with concerns regarding potential bias or conflict of interest may report that concern to the Title IX Coordinator. If an Investigator, Hearing Officer, or Appeal Officer has a conflict of interest, a different person will be assigned. Such a concern regarding the Title IX Coordinator may be reported to the MCPHS Chief Community Engagement Officer.

***Information Provided:*** Both parties will receive the MCPHS Protection from Sexual Harassment (Title IX) Policy, this Resolution Process, the Rights and Expectations, support resources, and written notice of the allegations potentially constituting Sexual Harassment.<sup>8</sup> The written notice will also inform both parties of their right to an Advisor of their choice, the prohibition on providing false information, and the presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the resolution process. During the Resolution Process, both parties will receive periodic status updates. Ten business days before a hearing of determination regarding responsibility, the Investigator(s) will provide access to an investigative report that fairly summarizes relevant evidence, including inculpatory and exculpatory evidence, to each party and the parties' advisors, if any, for their review and written response. The relevant evidence will also be available to the parties and their advisors during the hearing. Within seven business days after the hearing, the Hearing Officers will provide the draft report, which includes the determination regarding responsibility and the findings of fact that support that determination.

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<sup>8</sup> The notice of allegations includes the identity of the parties, a description of the alleged conduct constituting sexual harassment, including the date and location of the incident, if known.

***Supportive Measures:*** Circumstances under which supportive measures may be imposed include those with a reasonable concern for safety. The Title IX Coordinator will determine whether supportive measures should be implemented at their discretion. Please see [Section VII](#) of this resolution process and Section 11 of the Protection from Sexual Harassment (Title IX ) Policy for additional information about supportive measures.

***Discipline for Related Violations:*** A Complainant or witness who causes or participates in an investigation of an incident of Sexual Harassment may not be subject to a disciplinary sanction for a violation of an employment expectation or policy or of the Student Code of Conduct related to that incident unless the University determines that the Complainant or witness's participation in the matter was not in good faith or that the violation of the employment expectation or policy, or the Student Handbook was egregious. An egregious violation includes, but is not limited to, conduct that places the health and safety of person(s) at risk.

***Retaliation Protections:*** Retaliation against any person, including the parties and witnesses, based on their participation in this Resolution Process is prohibited by the MCPHS Protection from Sexual Harassment (Title IX) Policy, this Resolution Process, the MCPHS Protection from Discrimination and Harassment Policy, and state and federal laws. MCPHS will take steps to prevent retaliation and will take strong, responsive action if it occurs. A concern of retaliation for participation in any matter pertaining to this Resolution Process should be immediately reported to the Title IX Coordinator. This includes concerns about retaliatory actions taken by the university or its officials. Examples of behavior that may be perceived as retaliatory include but are not limited to attempts to learn of or influence accounts made during the review and unwarranted disciplinary actions.

***Right to File a Criminal Report:*** Anyone who may have been subjected to sexual harassment, which may also constitute a crime, has the right to file a complaint with law enforcement authorities and will not be dissuaded from doing so. Upon request, the MCPHS Public Safety Department may assist students or employees in filing such a complaint or seeking a court protective order.

***Right to External Civil Processes:*** Any person who has filed or is participating in the investigation of a complaint under this Resolution Process may also utilize external civil or criminal processes available to them from courts or agencies outside of the University.

***Appeal Rights:*** Please see information about the Appeal request process in [Section XIII](#) of this document.

## B. Expectations

Both parties and witnesses are obligated not to Retaliate, to update the Investigator(s) if their contact information changes, to be truthful in presenting information, to provide information or participate within the timeframe provided by the Investigator(s); to promptly notify the Investigator(s) if someone has attempted to improperly learn of or change their account to disrupt the outcome of the review; and to notify the Investigator(s) if they believe they have faced retaliation as a result of their participation in this resolution process.

The university expects advisors to make themselves available to participate during live hearings, conduct themselves with decorum and according to the requirements of this resolution process in all proceedings, including live hearings, and abide by the rulings of the hearing officer(s).

***False information or complaint:*** Knowingly filing a false complaint, providing false information, or unduly influencing witnesses in a proceeding under this Resolution Process is prohibited.

## VII. Supportive Measures

Circumstances under which supportive measures may be imposed include those with a reasonable concern for safety. At their discretion, the Title IX Coordinator will determine whether supportive measures should be implemented at any point. A person does not need to file a formal complaint to receive supportive measures.

Supportive measures are not disciplinary actions or sanctions. They shall be designed to restore or preserve equal access to the university's education or employment program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the university's educational environment, or deter sexual harassment. Supportive measures may include, but are not limited to:

- Counseling
- Course-related adjustments, including extensions of deadlines or section transfers
- Modifications of work or class schedules or extracurricular activities
- Mutual restrictions on contact between the parties
- Changes in work, housing, or dining locations
- Reassignment to another supervisor or position
- Transportation
- Leaves of absence
- Assistance notifying law enforcement of alleged sexual harassment
- Assistance in seeking a court-issued protective order<sup>9</sup>

In addition to providing supportive measures, the Title IX Coordinator will discuss the university's Resolution process with the parties.

Generally, supportive measures are meant to be short-term. Once in place, they will be reviewed to determine whether they should continue. If so, the Title IX Coordinator will work with appropriate University resources to provide continued assistance to the parties. They will determine whether and when a supportive measure will become permanent.

Supportive measures will be kept confidential to the extent possible. However, some employees may need to learn of the supportive measures to coordinate or provide them.

Some supportive measures require the other party's cooperation, for example, "no contact" directives. When supportive measures are imposed that restrict or deny access, the individual receiving the measures will be given a description of the restriction in writing. If a person does not follow the directives of the Title IX Coordinator and/or the supportive measures, this may lead to disciplinary action.

The university will maintain any supportive measures provided to the complainant or respondent as confidential to the extent that maintaining such confidentiality would not impair the ability of the university to provide the supportive measures. The university will maintain records of supportive

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<sup>9</sup> If you obtained a court issued protective order, please notify and send a copy of the order to the MCPHS Public Safety Department.

measures for seven years.

Violations of the Title IX Coordinator's directives and/or supportive measures will constitute related violations that may lead to additional disciplinary action. Supportive measures imposed may become permanent depending upon the results of this Resolution Process as determined by MCPHS.

### VIII. Notice/Complaint

Upon receipt of a Formal Complaint or notice of an alleged policy violation, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps. The Title IX Coordinator will contact the Complainant to offer supportive measures and determine whether the Complainant wishes to file a Formal Complaint.

The Title IX Coordinator will then initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a Formal Complaint
- 2) An Informal Resolution (upon submission of a Formal Complaint)
- 3) A Formal Resolution Process, including an investigation and a hearing (upon submission of a Formal Complaint)

The University uses a Formal Resolution Process as described below to determine whether the Policy has been violated. If so, MCPHS will promptly implement effective remedies to ensure that it is not deliberately indifferent to sexual harassment or retaliation, their potential recurrence, and/or their effects.

### IX. Initial Assessment

Following receipt of notice or a Formal Complaint of an alleged violation of this Policy, the Title IX Coordinator engages in an initial assessment, typically within one to five (1-5) business days. The steps in an initial assessment can include:

- The Title IX Coordinator seeks to determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint themselves because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a Formal Complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to ensure it is correctly completed.
- The Title IX Coordinator contacts the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they know their right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an Informal Resolution option, or a formal investigation and resolution process.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their needs, determine the appropriate supports, and implement them accordingly. No Formal Resolution Process is initiated, though the Complainant can elect to initiate one later.
  - If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution and may seek to determine if the Respondent is also willing to engage in Informal Resolution.

- If the Formal Resolution Process is preferred by the Complainant, the Title IX Coordinator determines if the alleged misconduct falls within the scope of the 2020 Title IX regulations:
- If it does, the Title IX Coordinator will initiate the formal investigation and resolution process to address based on the nature of the complaint.

If the alleged misconduct does not fall within the scope of the Title IX regulations, the Title IX Coordinator determines that the regulations do not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, and will refer the matter accordingly. Please note that dismissing a complaint under the 2020 Title IX regulations is a procedural requirement that does not limit the University’s authority to address a complaint with another appropriate process and remedies.

#### A. Dismissals (Mandatory and Discretionary)

MCPHS must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment, even if proved
- 2) The conduct did not occur in an education program or activity controlled by MCPHS (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent
- 3) The conduct did not occur against a person in the United States
- 4) At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in the University’s education program or activity, and based on the available information, the Title IX Coordinator has determined that they do not need to sign a Formal Complaint on behalf of MCPHS.<sup>10</sup>

MCPHS may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein
- 2) The Respondent is no longer enrolled in or employed by MCPHS
- 3) Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein

A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it. Upon any dismissal, MCPHS will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal ([See Section XIII](#)).

#### X. Resolution Processes

Resolution proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accordance with MCPHS Policy. Although there is an expectation of privacy around what the Investigator(s) share with parties during interviews, the parties

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<sup>10</sup> Such a Complainant is still entitled to supportive measures, but the formal resolution process is not applicable unless the Title IX Coordinator signs the complaint in the event the Complainant cannot/will not do so.

have the discretion to share their own knowledge and evidence with others if they so choose, except for information the parties agree not to disclose as part of an Informal Resolution. MCPHS encourages parties to discuss any information sharing with their Advisors before doing so.

The Formal Resolution Process is MCPHS's primary resolution approach unless Informal Resolution is elected by all parties and the University.

#### A. Informal Resolution

Parties involved in a Title IX matter may request, in writing, to participate in an informal resolution.

The Title IX Coordinator will consult with the Office of Community Engagement to determine whether an informal resolution is appropriate and safe and if it may be pursued. Both parties must agree to engage in the informal resolution process. Informal resolution is not available in cases in which an employee is alleged to have engaged in sexual harassment affecting a student.

The university may facilitate informal resolution when:

- All parties have been informed in writing of the allegations of the formal complaint and this Resolution Process as it applies to both the adjudication of a formal complaint and informal resolution;
- All parties have consented in writing to participate in the informal resolution process and
- The Title IX Coordinator, in collaboration with the Office of Community Engagement, has determined that an informal resolution is appropriate.

Any resolution of a complaint through the informal resolution process will address the concerns of the complainant and the responsibility of the University to address alleged violations of its policy while also respecting the respondent's due process rights.

Upon determining that an informal resolution is appropriate, the Title IX Coordinator, in collaboration with the Office of Community Engagement, will assign the informal resolution to a facilitator trained in the impartial, informal resolution of sexual harassment complaints. The facilitator will attempt to aid the parties in finding a mutually acceptable resolution.

Before a resolution is reached, the process will change to the formal resolution process described in [Section X, Subsection B](#), below if:

- Either party decides to move to the formal process at any time;
- The Title IX Coordinator determines that the formal process should be followed at any time or
- An informal resolution was not reached within 10 business days, except for good cause.

A matter will be deemed satisfactorily resolved when both parties expressly agree to an outcome(s) that is also acceptable to the university. At any point before such an express agreement, either party may withdraw from the informal resolution process, and the formal resolution process of the complaint will proceed.

If an informal resolution agreement is reached and the matter is deemed satisfactorily resolved, a written informal resolution agreement will be signed by and provided to the Complainant, the Respondent, and the Title IX Coordinator, and the formal complaint will be dismissed. The Title IX Coordinator will

maintain the informal resolution agreement for seven years and share it only to the extent necessary to carry out the purposes of the informal resolution agreement.

Ordinarily, the parties have ten (10) business days from when a facilitator is assigned to reach an informal resolution agreement. The facilitator or Title IX Coordinator may extend this timeframe for good cause, and written notice of such extensions shall be provided to each party.

Participation in informal resolution is voluntary and will not be a condition of either party's enrollment or employment.

If either party has reason to believe that the informal resolution agreement has not been followed, they should notify the Title IX Coordinator in writing within 10 calendar days of the alleged violation. The Title IX Coordinator, in coordination with the Office of Community Engagement, will review the concern and determine the next steps.

## B. Formal Resolution Process - Investigation

### 1. Notice of Investigation and Allegations

The Title IX Coordinator will provide the Respondent a written Notice of Investigation and Allegations (the "NOIA") upon commencement of the Formal Resolution Process. This facilitates the Respondent's ability to prepare for the interview and identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who will be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all allegations
- The identity of the involved parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies implicated
- A description of the applicable procedures
- A statement of the potential sanctions/responsive actions that could result
- A statement that the University 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 during the review and comment period to inspect and review all directly related and/or relevant evidence obtained
- A statement about the MCPHS's policy on retaliation
- Information about the privacy of the process
- Information on the need for each party to have an Advisor of their choosing for the live hearing
- A statement informing the parties that the University's policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how the party may request disability accommodations during the Resolution Process
- The name(s) of the Investigator(s), along with a process to identify to the Title IX Coordinator or the Chief Community Engagement Officer, in advance of the interview process, any conflict of interest that the Investigator(s) may have
- An instruction to preserve any evidence that is directly related to the allegations

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.

Notice will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the parties' MCPHS-issued email or designated accounts. Notice will be presumptively delivered once emailed and/or received in person.

## 2. Resolution Time

MCPHS will make a good faith effort to complete the Resolution Process within a sixty to ninety (60-90) business-day time period, excluding any appeals, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

## 3. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the individuals involved in the resolution process for impartiality by ensuring 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 the Title IX Coordinator will determine whether the concern is reasonable and supportable. The parties are encouraged to raise any bias or conflict of interest concerns promptly upon identifying the concern. 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 Community Engagement Officer.

## 4. Investigation Timeline

Investigations are completed expeditiously, generally within sixty (60) to ninety (90) business days. However, some investigations may take many weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, law enforcement involvement, etc. The University will make a good-faith effort to complete investigations as promptly as circumstances permit. It will communicate regularly with the parties to update them on the progress and timing of the investigation.

## 5. Investigative Process Delays and Interactions with Law Enforcement

If circumstances require, MCPHS may delay its investigation (several days to a few weeks). Such circumstances include but are not limited to a request from law enforcement to delay the investigation temporarily, the need for language assistance, the absence of parties and/or witnesses, and/or health conditions.

MCPHS will write to the parties explaining the reason for and the anticipated duration of the delay and will provide status updates if necessary. The University will promptly resume its investigation and Resolution Process as soon as feasible. During such a delay, MCPHS will implement supportive measures as deemed appropriate.

The University's action(s) or processes are not typically altered or precluded because civil or criminal charges involving the underlying incident(s) have been filed, or criminal charges have been dismissed or reduced.

## 6. Investigative Process Steps

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all available relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses<sup>11</sup>, and to fully review and respond to all evidence on the record. A summary of the interviews is provided to the parties and witnesses for their review.

The Investigator(s)<sup>12</sup> typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- May conduct a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues, witnesses, evidence, intended investigation timeframe, and order of interviews for the parties and witnesses
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegations (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - Notice should inform the parties of their right to have the assistance of an Advisor, who could be an Advisor of their choosing to be present for all meetings attended by the party or assigned by the Title IX Coordinator at the party's request, for the live hearing only.
- 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
- Make good faith efforts to notify each party of any meeting or interview involving another party in advance when possible
- When the participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Write a comprehensive report summarizing the investigation and all witness interviews and addressing all relevant evidence. Appendices, including relevant physical or documentary evidence, will be included

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<sup>11</sup> Parties are responsible for the costs associated with their expert witnesses.

<sup>12</sup> At MCPHS, the Title IX Coordinator may also serve as the investigator. In limited circumstances, MCPHS may engage an internal or external investigator.

- Gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic draft investigation report and/or an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University does not intend to rely in reaching a determination, for a ten (10) calendar day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten (10) days.
- Elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- Incorporate or attach relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period.
- Share the report with the Chief Community Engagement Officer and/or legal counsel for their review and feedback.
- Incorporate any relevant feedback and share the final report with all parties and their Advisors through secure electronic transmission at least ten (10) calendar days before a hearing. The parties and Advisors are also provided access to a file of any directly related evidence not included in the report.

*a) Witness Role and Participation in the Investigation*

Witnesses who are employees of MCPHS are required to cooperate with and participate in the University's Resolution Process. Student witnesses and witnesses from outside the MCPHS community are encouraged to cooperate with MCPHS investigations and to share what they know about a complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances may require individuals to be interviewed remotely. Zoom, Microsoft Teams, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness, efficiency, or other reasons dictate a need for remote interviewing. MCPHS will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

*b) Interview Recording*

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If the Investigator(s) elect to audio and/or video record interviews, all involved parties should be made aware of and consent to audio and/or video recording.

*c) Evidentiary Consideration*

Neither the investigation nor the hearing will consider (1) incidents not relevant or not directly related to the possible violation(s), or (2) questions and evidence about the Complainant's sexual predisposition, or (3) questions and evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern

specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

## 7. Referral for Hearing

Provided that the complaint is not resolved through an Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be held less than ten (10) business days from the conclusion of the investigation—when the final investigation report is transmitted to the parties and the Hearing Officer(s)/Decision-maker(s)—unless all parties and the Hearing Officer(s)/Decision-maker(s) agree to an expedited timeline.

The Title IX Coordinator, in coordination with the Office of Community Engagement, will select an appropriate Hearing Officer(s)/Decision-maker(s) and provide access to the investigation report and the file of directly related evidence. Allegations involving student-employees in the context of their employment will be directed to the appropriate Hearing Officer(s)/Decision-maker(s) depending on the context and nature of the alleged misconduct.

## C. Formal Resolution - Live Hearing

### 1. Hearing Decision-maker

MCPHS will designate a Hearing Officer(s)/Decision-maker(s) at the discretion of the Title IX Coordinator in collaboration with the Office of Community Engagement. The Hearing Officer(s)/Decision-maker (s) will also be the Chair for the hearing when MCPHS selects to use a panel.

The Hearing Officer(s)/Decision-maker(s) will not have any previous involvement with the complaint. The Title IX Coordinator may elect to have an alternate sit-in throughout the hearing process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and, therefore, may not serve as Hearing Officer(s)/Decision-makers. Those who serve as advisors for any party may not serve as Hearing Officer(s)/Decision-Makers.

The Title IX Coordinator may not serve as a Hearing Officer(s)/Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter does not create a conflict of interest. Otherwise, a designee may fulfill the facilitator role. The hearing will convene at a time and venue determined by the Title IX Coordinator.

### 2. Additional Evidentiary Consideration in the Hearing

Previous disciplinary action of any kind involving the Respondent may not be used unless there is an allegation of a pattern of misconduct. Such information may be considered in determining an appropriate sanction upon determining responsibility. This information is only considered at the sanction stage of the process and is not shared until then.

After post-hearing deliberation, the Hearing Officer(s)/Decision-maker(s) render(s) a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

### 3. Hearing Notice

No less than ten (10) calendar days before the hearing,<sup>13</sup> the Title IX Coordinator or the Hearing Officer/Chair will send notice of the hearing to the parties. Notice will be presumptively delivered once emailed and/or received in person.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- Provide a description of any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Hearing Officer(s)/Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be made to the Title IX Coordinator as soon as possible, preferably at least five (5) calendar days before the hearing.
- A list of all those attending the hearing and an invitation to object to any Hearing Officer(s)/Decision-maker(s) based on demonstrated bias or conflict of interest. This must be raised with the Title IX Coordinator at least two (2) business days before the hearing.
- Information on how the hearing will be recorded and how the parties can access the transcript of the recording after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Hearing Officer(s)/Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they wish to conduct cross-examination and do not have an Advisor, and the University will appoint one. Each party must have an Advisor present if they intend to cross-examine others. There are no exceptions.
- Access to all the materials provided to the Hearing Officer(s)/Decision-maker(s) about the complaint unless they have already been provided.<sup>14</sup>
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days before the hearing.
- Whether parties can/cannot bring mobile phones/devices into the hearing.

### 4. Pre-Hearing Preparation

After any necessary consultation with the parties, the Hearing Officer(s)/Chair will provide the names of persons who have been asked to participate in the hearing, access to all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) calendar days before the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless all parties and the Hearing Officer(s)/Chair assent to the witness's participation in the hearing. The same holds for any relevant evidence that is first offered at the hearing. If the parties and Hearing Officer(s)/Chair do not assent to the admission of evidence newly offered at the hearing, the

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<sup>13</sup> Unless an expedited hearing is agreed to by all parties.

<sup>14</sup> The final investigation report may be accessible electronically.

Hearing Officer(s)/Chair may delay the hearing and/or instruct that the investigation needs to be reopened to consider that evidence.<sup>15</sup>

The parties will be given a list of the name(s) of the Hearing Officer(s)/Decision-maker(s) at least five (5) business days in advance of the hearing. All objections to any Hearing Officer(s)/Decision-maker(s) must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two (2) calendar days prior to the hearing. Hearing Officer(s)/Decision-makers will only be removed if the Title IX Coordinator concludes that their actual or perceived bias or conflict of interest precludes an impartial hearing of the complaint.

The Title IX Coordinator will give the Hearing Officer(s)/Decision-maker(s) a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Hearing Officer(s)/Decision-maker(s) who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Hearing Officer/Decision-maker is unsure whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

## 5. Pre-Hearing Meeting

The Hearing Officer/Chair may, at their discretion, convene a pre-hearing meeting(s) with the parties and/or their Advisors and invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing so that the Hearing Officer/Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or asking for a reconsideration of a pre-hearing ruling by the Hearing Officer/Chair based on any new information or testimony offered at the hearing. The Hearing Officer/Chair must document and share their rationale for any exclusion or inclusion with each party at a pre-hearing meeting.

At each pre-hearing meeting with a party and/or their Advisor, the Hearing Officer/Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Hearing Officer/Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Hearing Officer/Chair may consult with legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded. The pre-hearing meetings may be conducted as separate meetings with each party/Advisor, with all parties/Advisors present at the same time, remotely, or as a written-only exchange. The Hearing Officer/Chair will work with the parties to establish the format.

## 6. Hearing Procedure

At the hearing, the Hearing Officer(s)/Decision-maker(s) have the authority to hear and make determinations on all allegations of sexual harassment.

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<sup>15</sup> 34 C.F.R. § 668.46(k)(3)(B)(3) requires “timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings.”

Participants at the hearing may include the Hearing Officer/Chair, any additional panelists, the Investigator(s) who conducted the investigation, the parties, Advisors to the parties, any called witnesses, the Title IX Coordinator, and anyone providing authorized accommodations, interpretation, and/or assistive services.

The Hearing Officer/Chair will answer all questions about the Live Hearing Process.

Anyone appearing at the hearing to provide information will respond to questions on their behalf.

The Hearing Officer/Chair will allow witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the Hearing Officer(s)/Decision-maker(s) and the parties, and the witnesses will then be excused. The Investigator(s) may, but is not required to, remain present for the duration of the hearing.

## 7. The Order of the Hearing -Introductions and Explanations

The Hearing Officer or Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Hearing Officer(s)/Decision-maker(s) based on bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review the challenge and decide.

## 8. Testimony and Questioning

The Investigator(s) may present(s) the report, if requested by the Hearing Officer(s), and respond(s) to questions. The parties and witnesses may provide relevant information in turn, beginning with the Complainant and then in the order determined by the Hearing Officer(s)/Decision Maker(s). The parties and witnesses will be questioned first by the Hearing Officer(s)/Decision-maker(s) and then by the parties through their Advisors.

All questions are subject to a relevance determination by the Hearing Officer or Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Hearing Officer/Chair upon request if agreed to by all parties and the Hearing Officer or Chair), then the proceeding will pause to allow the Hearing Officer or Chair to consider the question (and state it if it has not already been stated aloud) and determine whether the question will be permitted, disallowed, or rephrased.

The Hearing Officer or Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed accordingly. The Hearing Officer or Chair will explain any decision to exclude a question as irrelevant or to reframe it for relevance.

The Hearing Officer or Chair will limit or disallow questions because they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Hearing Officer or Chair has the final say on all questions and determinations of relevance. The Hearing Officer or Chair may consult with legal counsel on any questions of admissibility.

If the parties raise an issue of bias or conflict of interest of an Investigator or Hearing Officer/Decision-maker at the hearing, the Hearing Officer or Chair may consult with legal counsel and/or refer them to the Title IX Coordinator and/or preserve them for appeal. If bias is not an issue at the hearing, the hearing officer or chair should not permit irrelevant questions to be probed for bias.

## 9. Refusal to Submit to Questioning

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing or because they attend but refuse to participate in some or all questioning. The Hearing Officer(s)/Decision-maker(s) can only rely on whatever relevant evidence is available through the investigation and hearing to determine responsibility. The Hearing Officer(s)/Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

## 10. Hearing Recordings

Hearings but not deliberations are recorded by MCPHS for purposes of review in the event of an appeal. The parties cannot record the proceedings; no other unauthorized recordings are permitted. The Hearing Officer(s)/Decision-maker(s), the parties, their Advisors, and appropriate university administrators will be permitted to review the recording or a transcript of the recording upon request to the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording.

## 11. Deliberation, Decision-Making, and Standard of Proof

The Hearing Officer(s)/Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible for the policy violation(s) in question. Deliberations will not be recorded or transcribed. The preponderance of the evidence standard of proof is used.

The Hearing Officer(s)/Decision-maker(s) share their determination with the appropriate MCPHS administrator, who will then determine the appropriate sanctions.

The Hearing Officer or Chair will then prepare a written statement detailing all findings and final determinations, the rationale(s) explaining the decision(s), the evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and deliver the statement to the Title IX Coordinator. This statement must be delivered to the Title IX Coordinator within three business days of the end of deliberations unless an extension is granted and the parties are informed of it.

## 12. Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Hearing Officer or Chair to prepare a Notice of Outcome letter. The Title IX Coordinator will then share the letter, which includes the final determination, rationale, and any applicable sanction(s), with the parties within seven (7) business days after receiving the deliberation statement.

The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official MCPHS records, or emailed to the parties' MCPHS-issued email or otherwise approved account. Notice will be presumptively delivered once mailed, emailed, and/or received in person.

The Notice of Outcome will articulate the specific alleged policy violation(s), including the relevant policy section(s), and will contain a description of the procedural steps taken by the university from the

receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding for each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the MCPHS is permitted to share such information under state or federal law; any sanction(s) issued which the University is permitted to share according to state or federal law; and whether remedies will be provided to the Complainant to ensure access to MCPHS's educational or employment program or activity.

The Notice of Outcome will also include information on when the results are considered final by the University, will note any changes to the outcome and/or sanction(s) that occur before finalization, and the relevant procedures and bases for appeal.

## XI. Sanctions

Factors considered when determining a sanction/responsive action may 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/responsive actions to bring an end to the sexual harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment and/or retaliation
- The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this Resolution Process are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening the resolution process at any time and/or referring that information to another process for resolution.

### A. Student Sanctions

The following are common sanctions that may be imposed upon students 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.
- *Required Counseling*: A mandate to meet with and engage in either MCPHS-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions if the student 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 privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact directives, and/or other measures deemed appropriate.

- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation for the remainder of their tenure at MCPHS.<sup>16</sup>
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend MCPHS-sponsored events.
- *Withholding Diploma*: The 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.<sup>17</sup>
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

## B. Student Organization Sanctions

The following are the common sanctions that may be imposed upon student 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*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions if the 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 directives, and/or other appropriate measures.
- *Suspension*: Termination of student organization recognition for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student organization may not conduct formal or informal business or participate in MCPHS-related activities, whether 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 the MCPHS.
- *Expulsion*: Permanent termination of student organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.

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<sup>16</sup> MCPHS transcripts do not indicate student disciplinary actions, excluding expulsion, which shall remain on the student's educational record permanently, and suspension, which shall remain on the student's educational record during the term of the suspension. For cases where the sanction might be expulsion or suspension, the University may, in its sole discretion, make notations on a student's transcript that a disciplinary case is pending.

<sup>17</sup> In accordance with applicable law, a "disciplinary hold" may be placed on a student's academic record at the University prior to a disciplinary hearing. Students with a disciplinary hold may not be permitted to register for classes, request transcripts, receive a diploma, add or drop courses, or participate in other University activities without permission from the Dean of Students or their designee. When a student withdraws, takes a leave of absence, or becomes inactive from the University after engaging in conduct that may violate any of the University's policies, rules, regulations, or standards of conduct but before the alleged violation has been adjudicated through the conduct process, a hold will be placed on the student's record. The hold will prevent a student from re-enrolling at the University until the alleged violations have been resolved. [See page 70 of the Student Handbook.](#)

- *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, the MCPHS may assign any other sanctions as deemed appropriate.

### C. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in sexual harassment and/or retaliation 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*
- *Denial of Promotion*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Assignment to 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, the MCPHS may assign any other responsive actions as deemed appropriate.

## XII. Withdrawal or Resignation Before Complaint Resolution

### A. Students:

Should a Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation, to a reasonable resolution. Should a student Respondent permanently withdraw from the MCPHS, the Resolution Process typically ends with dismissal, as the MCPHS has lost primary disciplinary jurisdiction over the withdrawn student. However, the MCPHS may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged sexual harassment.

Regardless of whether the complaint is dismissed or pursued to the completion of the Resolution Process, the University 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 sexual harassment.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely and, 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 resign with unresolved allegations pending, the Resolution Process typically ends with dismissal, as the University has lost primary disciplinary jurisdiction over the resigned employee. However, the MCPHS may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged sexual harassment.

Regardless of whether the complaint matter is dismissed or pursued to the completion of the Resolution Process, the University will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s) and any ongoing effects of the alleged sexual harassment.

### XIII. Appeal

Any party may submit a written request for appeal, consisting of 5 to 10 pages, to the Title IX Coordinator within three business days after receiving the Notice of Outcome.

A single Appeal Decision-maker will Chair the appeal. No Appeal Decision-maker will have been previously involved in the Resolution Process for the complaint, including in any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Officer for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal but solely a determination as to whether the request meets the grounds and is filed in a timely manner.

#### A. Grounds for Appeal

Appeals are limited to the following grounds:

- 1) A procedural irregularity that affected the outcome of the matter
- 2) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter
- 3) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, the Appeal Officer will deny that request, and the parties will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Officer will notify all parties, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Hearing Officer(s)/Decision-maker(s).

All other parties, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Hearing Officer(s)/Decision-maker(s) will be emailed a copy of the Request for Appeal with the approved

grounds and then be given three (3) business days to submit a response to the portion of the appeal that was approved and involves them. All responses, if any, will be forwarded by the Appeal Officer to all parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, the appeal officer will review it to determine if it meets the grounds included in this policy and either denies or approves it. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, and the Investigator(s) and/or original Hearing Officer(s)/Decision-maker(s), as necessary, who will submit their responses, if any, within three (3) business days. Any such responses will be circulated for review and comment by all parties. If not approved, the parties will be notified accordingly in writing.

Neither party may submit any new requests for appeal after this time period. The Appeal Officer will collect any additional information needed and all documentation regarding the approved grounds for appeal, as well as the subsequent responses, and will render a decision within no more than five (5) business days, barring exigent circumstances.

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, and the rationale supporting the essential findings to the extent MCPHS is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties 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, notice will be presumptively delivered.

#### B. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed (i.e.: not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

#### C. Appeal Considerations

- Appeals are not intended to provide a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- Decisions on appeal are to be deferential to the original determination, making changes to the finding only when there is clear error.
- An appeal is not an opportunity for the Appeal Officer(s) to substitute their judgment for that of the original Hearing Officer(s)/Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Officer may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale for clarification if needed. Documentation of all such consultations will be maintained.
- Appeals granted should generally be remanded (or partially remanded) to the original Investigator(s) and/or Hearing Officer(s)/Decision-maker(s) for reconsideration.
- When appeals result in no change to the finding or sanction, that decision is final.

- In rare cases where an error cannot be cured by the original Investigator(s) and/or Hearing Officer(s)/Decision-maker(s) or the Title IX Coordinator (as in cases of bias), the Appeal Officer may request a new investigation and/or a new hearing with a new Investigator and Hearing Officer(s).
- The results of a remand to a Hearing Officer(s)/Decision-maker(s) cannot be appealed. The results of a new hearing can be appealed once on any of the three available appeal grounds.
- In cases that result in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

#### XIV. Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented, the Title IX Coordinator, in consultation with the Office of Community Engagement, may implement additional long-term remedies or actions with respect to the parties and/or the institutional community that are intended to stop the sexual harassment, remedy the effects, and prevent reoccurrence.

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- 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 in consultation with the Office of Community Engagement, certain long-term support or 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 the University owes the Respondent to ensure no effective denial of educational or employment access.

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

#### XV. Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s), including the Appeal Officer.

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

termination from the University. Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

#### XVI. Recordkeeping

MCPHS will maintain, for a period of at least seven years following the conclusion of the Resolution Process, records of:

- 1) Each sexual harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation
- 2) Any disciplinary sanctions imposed on the Respondent
- 3) Any remedies provided to the Complainant designed to restore or preserve equal access to the MCPHS's education program or activity
- 4) Any appeal and the result therefrom
- 5) Any Informal Resolution and the result therefrom
- 6) All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. MCPHS will make these training materials publicly available on its website.
- 7) Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
  - a. Any measures designed to restore or preserve equal access to the MCPHS's education program or activity
  - b. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances

MCPHS will also maintain any and all records in accordance with state and federal laws.<sup>18</sup>

#### XVII. Disability Accommodations in the Resolution Process

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

Students needing such accommodations or support should contact the Office of Student Access and Accommodations (OSAA) or Human Resources if the person needing accommodations is an employee. These offices will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the resolution process.

#### XVIII. Revision of this Policy and Procedures

The MCPHS Protection from Sexual Harassment (Title IX) Policy and this Resolution Process supersede any previous policies addressing sexual harassment and/or retaliation under Title IX. They will be reviewed annually or as needed based on changes in the law or court decisions by the Title IX Coordinator in consultation with the Office of Community Engagement and University Counsel. MCPHS reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the Resolution Process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate academic and summer schedules.

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

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

This Sexual Harassment Resolution Process is effective April 8, 2025.