

## **1. Equal Opportunity, Harassment, and Nondiscrimination**

Maryland Institute College of Art (MICA) is committed to providing its staff, faculty, students, and guests the opportunity to pursue excellence in their academic and professional endeavors. This opportunity can only exist when each member of our community is assured an atmosphere of mutual respect in which one is judged solely on criteria related to academic or job performance. The College is committed to providing such an environment, free from all forms of harassment and discrimination. Each member of the community is responsible for fostering mutual respect, being familiar with this policy, and refraining from conduct that violates this policy.

MICA affirms its commitment to promote our values of fairness and equity. Complaints of discrimination or harassment are subject to resolution using the College's Sexual Harassment Hearing Board or Disciplinary Hearing Board, as detailed below. The Hearing Board Process is applicable regardless of whether the parties involved are members or non-members of the campus community, students, student organizations, faculty, administrators, or staff.

The Associate Vice President for Human Resources, Estevanny Turns, serves as the Title IX/Equity/AA Coordinator and ADA/504 Coordinator and oversees the implementation of MICA's policy on equal opportunity, harassment, and nondiscrimination. There is no time limitation on the filing of complaints. Reports of discrimination, harassment and/or retaliation may be made promptly using any of the following options:

1. Report directly to the Title IX/Equity/AA Coordinator and Deputy Coordinator (listed below)
2. Report to Campus Safety
3. Report to Student Affairs
4. Report to supervisor or faculty member

Reports of misconduct or discrimination committed by the Title IX/Equity/AA Coordinator should be reported to the MICA President, Samuel Hoi, 1300 West Mount Royal Avenue, Suite M150, Baltimore, MD 21217, [shoi@mica.edu](mailto:shoi@mica.edu), (410) 225-2237.

All reports are acted upon promptly while every effort is made by the College to preserve the confidentiality of reports. Such reports may also be anonymous. Most employees (faculty and staff) of MICA are required to share reports of discrimination, harassment, and other

violations covered in this policy promptly with the Title IX/Equity/AA Coordinator or other appropriate campus official. Only on-campus licensed professional counselors (MICA Counseling Center) and campus health service providers (MICA Student Health Services) whose official responsibilities include providing such services to members of the MICA community are able to grant confidentiality. Confidentiality and required reporting are addressed more specifically in Section 8, below.

This policy applies to behaviors that take place on the campus or at College-sponsored events and may also apply to off-campus (including online) activities when the Title IX/Equity/AA Coordinator determines that the off-campus conduct affects a substantial MICA interest.

Inquiries about this policy and procedure may be made internally to:

Estevanny Turns

Title IX/Equity/AA Coordinator

Office of Human Resources

Location/Address:

Bunting Center 3101

300 West Mount Royal Avenue

Baltimore, MD 21217 (410) 383-6616

[eturns@mica.edu](mailto:eturns@mica.edu)

Michael Patterson

Deputy Title IX Coordinator

Office of Student Affairs

Location/Address:

Bunting 260

300 West Mount Royal Avenue

Baltimore, MD 21217 (410) 225-2422

[mpatters@mica.edu](mailto:mpatters@mica.edu)

Inquiries may be made externally to:

Office for Civil Rights, Headquarters (OCR)

U.S. Department of Education

400 Maryland Avenue, SW

Washington, DC 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: [www.ed.gov/ocrhttp://www2.ed.gov/about/offices/list/ocr/index.html](http://www.ed.gov/ocrhttp://www2.ed.gov/about/offices/list/ocr/index.html)

Equal Employment Opportunity Commission (EEOC)

Contact: <http://www.eeoc.gov/contact>

## **2. Nondiscrimination**

MICA adheres to all federal, state and local civil rights laws banning discrimination in institutions of higher education. The College will not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of race, religion, color, sex, pregnancy, religion, creed, ethnicity, national origin (including ancestry), physical or mental disability, age, marital status, sexual orientation, gender, gender identity, perceived identity (including appearance), veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, or any other protected category under applicable local, state or federal law, including protections for those opposing discrimination or participating in any grievance process on campus or with the Equal Employment Opportunity Commission or other civil rights agencies.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community, guest, or visitor who acts to deny, deprive or limit the educational, employment, residential and/or social access, benefits and/or opportunities of any member of the campus community on the basis of his or her actual or perceived membership in the protected classes listed above is in violation of MICA's policy on nondiscrimination. When brought to the attention of the College, any such discrimination will be appropriately remedied according to the procedures outlined below.

## **3. Accommodation of Disabilities**

MICA is committed to full compliance with the Americans with Disabilities Act of 1990 as amended (ADA) and Section 504 of the Rehabilitation Act of 1973. These and other federal, state and local laws prohibit discrimination against qualified persons with disabilities. Under the ADA, "disability" means a physical or mental impairment that substantially limits a major life activity of an individual; a record of such an

impairment; or being regarded as having such an impairment. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The Associate Vice President for Human Resources, Estevanny Turns, has been designated as the ADA/Section 504 Coordinator responsible for coordinating efforts to comply with these disability laws, including investigation of any complaint.

### **3.1. Students with Disabilities**

MICA is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to all programs and activities of the College.

Requests for accommodations are considered on a case-by-case basis. A student requesting any accommodation should first contact the Director of Writing Studio & Learning Resource Center, Dan Gutstein, who coordinates services for students with disabilities. The Director reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate to the student's particular needs.

### **3.2. Employees with Disabilities**

Pursuant to the ADA, MICA will provide reasonable accommodation(s) for qualified employees with disabilities. An accommodation is not reasonable if it poses an undue hardship to the College.

An employee with a disability is responsible for making a request for accommodation, in writing, to their Human Resources Specialist and providing appropriate documentation.

## **4. Discriminatory Harassment**

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. MICA's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under the College's policy.

#### **4.1. Discriminatory and Bias-Related Harassment**

Harassment constitutes a form of discrimination that is prohibited by law. The College harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of an individual's actual or perceived membership in a protected class.

MICA condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by College policy or law. The College will remedy all forms of harassment when reported, and may impose sanctions for violation of this policy, whether or not the harassment constitutes unlawful discrimination.

A hostile environment may be created by oral, written, graphic, or physical conduct that is sufficiently persistent or pervasive and objectively offensive that it interferes with, limits, or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.

MICA reserves the right to address offensive conduct that does not violate this policy (e.g., is not on the basis of a protected status) through appropriate discipline, facilitated conversation, remedial actions, education, and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact the Employee Relations Director, Laura Rossi, and students should contact the Associate Dean for Student Health and Wellness.

#### **4.2. Sexual Harassment**

Sexual harassment is a form of sex discrimination and, therefore, is an unlawful discriminatory practice. For purposes of this policy, sexual harassment is unwelcome behavior of a sexual nature. Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's instruction, employment, or participation in any College activity
- Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting that individual

Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creates an intimidating, hostile, or offensive environment.

Some examples of possible Sexual Harassment include:

- A professor insists that a student have sex in exchange for a good grade. This is harassment regardless of whether the student accedes to the request.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- Two supervisors frequently "rate" several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in class in discussions about their past sexual experiences, yet the conversation is not in any way pertinent to the subject matter of the class. The professor probes for explicit details, and demand that students answer, though they are clearly uncomfortable and hesitant.
- An individual widely spreads false stories about their sex life with their former partner. The former partner is clearly uncomfortable and feels that they have been viewed as a social pariah on campus.

Anyone experiencing sexual harassment at MICA or any program/activity associated with MICA is encouraged to report it immediately to MICA's Title IX Coordinator or to any deputy coordinator.

### **4.3. Consensual Relationships**

In the view of the College, all employees are considered to have professional responsibility for students. Therefore, relationships between students and employees (faculty, administrator, or staff) are prohibited.

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

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, employees (including student employees and graduate teaching assistants) with direct supervisory or evaluative responsibilities who are involved in such relationships must promptly inform their supervisor and Human Resources of the relationship. This report will likely result in a change in supervisory or evaluative responsibility. Failure to self-report such relationships to a supervisor and/or Human Resources as required can result in disciplinary action for an employee.

#### **4.4. Sexual Misconduct**

State law defines various violent and/or non-consensual sexual acts as crimes. These definitions are found in Appendix A of this document. Additionally, MICA has defined categories of sexual misconduct, as stated below, for which action under this policy may be imposed. In general, the College considers Non-Consensual Sexual Intercourse violations to be the most serious and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees, for these offenses. However, MICA reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other gender-based offenses, including intimate partner or relationship (dating and/or domestic) violence, non-consensual sexual contact, and stalking, based on the facts and circumstances of the complaint.

Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation and/or gender identity of those involved. Violations include:

##### **4.4.1. Sexual Harassment (as defined in section 4.2 above)**

##### **4.4.2. Non-Consensual Sexual Intercourse**

Defined as: Any sexual penetration, however slight, that is without consent and/or by force. Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger, or object, and oral sex by mouth to genital contact.

#### **4.4.3. Non-Consensual Sexual Contact**

Defined as: Any intentional sexual touching, however slight, that is without consent and/or by force.

Sexual touching includes contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

#### **4.4.4. Sexual Exploitation**

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another but the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact.

Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed)
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity)
- Disseminating sexual pictures without the photographed person's consent
- Engaging in sexual activity with another person while knowingly infected with a sexually transmitted disease or infection (STD/STI) and without informing the other person of the disease or infection.
- Administering alcohol or drugs (such as "date rape" drugs) to another person without the individual's knowledge or consent

#### **4.4.5. Consent**

Consent is the knowing, voluntary and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. Silence or the absence of resistance alone is not consent.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous relationship is not sufficient to constitute consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that they no longer wants the act to continue, and, if that happens, the other person must stop immediately.

It is not an excuse that the individual responding party of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other. Incapacitation is defined as a state in which someone cannot make rational, reasonable decisions because the individual lacks the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

## **5. Other Civil Rights Offenses, When the Act is Based Upon the Status of a Protected Class**

- Threatening or causing physical harm, extreme verbal abuse, or other conduct that threatens or endangers the health or safety of any person on the basis of the individual’s actual or perceived membership in a protected class
- Discrimination or harassment, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of their actual or perceived membership in a protected class
- Intimidation, defined as implied or overt threats or acts that cause an unreasonable fear of harm in another on the basis of actual or perceived membership in a protected class
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the MICA community that are related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the hazing policy) on the basis of actual or perceived membership

in a protected class; hazing is also illegal under Maryland law and prohibited by the College

- Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally, on the basis of actual or perceived membership in a protected class
- Violence between those in an intimate relationship to each other (this includes romantic relationships, dating, domestic and/or relationship violence). Please see Appendix A for Maryland laws regarding domestic violence.
- Stalking, defined as any malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear of serious bodily injury, assault, sexual violence, or other traumatic event. Please see Appendix A for Maryland laws regarding stalking.
- Any other MICA rules, when a violation is motivated by the actual or perceived membership of the victim in a protected class may be pursued using this policy and process.

Sanctions for the above-listed “Other Civil Rights Behaviors” behaviors range from reprimand up through and including expulsion (students) or termination of employment.

## **6. Retaliation**

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of the person’s participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing a grievance, or assisting in providing information relevant to an investigation of discrimination or harassment is a serious violation of MICA policy. Acts of alleged retaliation should be reported immediately to the Title IX/Equity/AA Coordinator, Campus Safety, or Student Affairs and will be promptly investigated. The College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

## **7. Remedial Action**

MICA will implement initial remedial and responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, interim suspension, providing counseling and/or medical services, academic support, living arrangement adjustments, transportation accommodations<sub>10</sub>

providing a campus escort, academic or work schedule and assignment accommodations, safety planning, and referral to campus and community support resources.

MICA will take additional prompt remedial and/or disciplinary action in respect to any member of the community, guest or visitor who has been found to engage in harassing or discriminatory behavior or retaliation. Procedures for handling reported incidents are fully described below.

## **8. Confidentiality and Reporting of Offenses Under This Policy**

Most MICA employees are expected to report incidents of discrimination or harassment to appropriate College officials. In order to make informed choices, one should be aware of confidentiality and responsible employee reporting requirements when consulting campus resources.

On campus, some resources may maintain confidentiality – meaning they are not required to report incidents of discrimination or harassment to appropriate College officials - and therefore may discuss options and offer advice without any obligation to inform a College official unless you request that the information be shared. Other resources will take action when you report discrimination or harassment, including crimes such as sexual violence, to them.

The College encourages reporting and seeks to remove any barriers to reporting by making the procedures for reporting transparent and straightforward. The College recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of a potential policy violation and consequences for their own conduct. An individual who reports sexual misconduct, either as a complainant or third party witness, will not be subject to disciplinary action by the College for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The College may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

The following describes the two reporting options at MICA:

## **8.1 Confidential Reporting**

If a reporting party would like the details of an incident of discrimination or harassment to be kept confidential, the reporting party may speak with on-campus licensed professional counselors (MICA Counseling Center) and campus health service providers (MICA Student Health Services) whose official responsibilities include providing such services to members of the MICA community or, in the case of employees, the College's Employee Assistance Program. These confidential on-campus resources are available to help free of charge and can be seen on an emergency basis during normal business hours.

Off-campus resources such as professional counselors, health care providers, rape crisis counselors, domestic violence resources, local or state assistance agencies, and members of the clergy are required to maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. A list of these resources can be found in Section 12.

## **8.2 Formal Reporting Options**

MICA employees must report incidents of discrimination or harassment to an appropriate College official unless the employee has a confidential relationship as described in section 8.1 above. Individuals may want to consider carefully whether they share personally identifiable details with non-confidential employees, since those details must be shared by the employee with the Title IX Coordinator and/or Deputy Coordinators (in the case of sex discrimination or sexual harassment, including sexual violence) or other appropriate College official. If a complainant does not wish for his or her name and/or the name of the alleged violator to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the complainant may make such a request to the Title IX Coordinator or other appropriate College official, who will evaluate that request in light of the responsibility to provide a safe and non-discriminatory environment for all members of the campus community.

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

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to: Division of Student Affairs, Campus Safety, Human Resources, and the Threat Assessment Team. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible in order to preserve the complainant's rights and privacy

### **8.3 Reporting to Law Enforcement**

The campus process is not a criminal proceeding and does not take the place of such. Disciplinary proceedings are independent of civil or criminal proceedings and may go forward regardless of action taken (or not taken) by law enforcement agencies. Clearly, violations of sexual assault laws are subject to criminal and civil prosecution and may be referred to law enforcement agencies for disposition.

A victim/survivor of sexual assault has the right to file charges, and, at the victim/survivor's request, MICA will promptly assist in notifying appropriate law enforcement officials. You can also contact the Baltimore Police Department to file criminal charges at 410-369-2411. Always call 911 in the case of an emergency.

If you would like assistance from someone outside MICA, call the Sexual Assault Center Hotline at 410-828-6390.

## **9. Federal Timely Warning Obligations**

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

## **10. False Complaints**

Deliberately false and/or malicious accusations of harassment, as opposed to grievances which, even if erroneous, are made in good faith, are just as serious an offense as harassment and will be subject to appropriate disciplinary action.

## **11. Resolving Complaints**

An individual who wishes to make a report of sexual harassment or other forms of prohibited conduct is encouraged to make a report directly to the Title IX Coordinator, Deputy Title IX Coordinator, the Title IX Specialist, the Student Affairs Office, Residence Life, Campus Safety, or Human Resources. In every instance under this policy, the College, through the coordinated efforts of the Title IX team, will conduct an Initial Title IX Assessment.

At the conclusion of the Title IX Assessment, the report will be referred for Informal Resolution or Investigation to determine if there is sufficient information to proceed with Formal Resolution.

Informal Resolution is a non-disciplinary, remedies-based approach that does not involve disciplinary action against a Respondent.

Formal Resolution is a grievance process that may involve discipline up to and including expulsion and/or termination of employment.

### **11.1. Initial Title IX Assessment**

Upon receipt of a report, MICA, through the coordinated efforts of the Title IX team, will conduct an Initial Title IX Assessment. The first step of the assessment will usually be a preliminary meeting of the Claimant with the Title IX Coordinator or a member of the Title IX team. The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report; it is not intended to be a full investigatory interview. At this meeting, the Claimant will be provided with information about resources, procedural options, and interim remedies.

As part of the initial assessment of the report, the Title IX team member(s) will complete the following as appropriate:

- Assess the nature and circumstances of the allegation
- Address immediate physical safety and emotional well-being needs
- Notify the Claimant of their right to contact law enforcement and seek medical treatment, including the importance of preservation of evidence

- Report the incident to Campus Safety for entry into MICA’s daily crime log
- Confer with Campus Safety to assess the reported conduct for the need for a timely warning under the Clery Act
- Provide the Claimant with information about:
  - On and off campus resources
  - The range of interim accommodations and remedies
  - An explanation of the procedural options, including Informal Resolution and Formal Resolution
- Make available an advisor, advocate, or support person
- Assess for a pattern of evidence or other similar conduct by Respondent
- Discuss the Claimant’s expressed preference for manner of resolution and any barriers to proceeding
- Explain MICA’s policy prohibiting retaliation

This initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made. Thereafter, an investigation may continue depending on a variety of factors, such as the Claimant’s wish to pursue a formal resolution, the risk posed to any individual or the campus community by not proceeding, and the nature of the allegation.

At the conclusion of the Initial Title IX Assessment, the Title IX team will determine the appropriate manner of resolution and, if appropriate, refer the report for Informal Resolution, or Formal Investigation and Resolution.

The determination as to how to proceed will be communicated to the Claimant in writing. Depending on the circumstances and requested resolution, the Respondent may or may not be notified of the report or resolution. A Respondent will be notified when the College seeks action that would impact a Respondent, such as protective measures that restrict their movement on campus or communication with certain individuals, the initiation of an investigation, or the decision to involve the Respondent in Informal or Formal Resolution.

## **11.2 Informal Resolution**

Informal resolution is a remedies-based, non-disciplinary approach designed to eliminate a hostile environment without taking disciplinary action against a Respondent.

Where the Initial Title IX Assessment concludes that informal resolution may be appropriate, MICA will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Claimant's access to the educational and extracurricular activities at the college and to eliminate a hostile environment. Depending on the form of informal resolution used, it may be possible to maintain anonymity. Informal resolution will not be used in cases of sexual violence or assault.

MICA will not compel a Claimant to engage in mediation, to directly confront the Respondent, or to participate in any particular form of informal resolution. Mediation, even if voluntary, will not be used in cases involving sexual violence or assault. The decision to pursue informal resolution will be made when the College has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in informal resolution is voluntary, and a Claimant can request to end informal resolution at any time.

The Title IX Coordinator will maintain records of all reports and conduct referred for informal resolution. Informal resolution will typically be completed within thirty (30) to sixty (60) calendar days of the initial report.

### **11.3 Formal Resolution**

#### **Pre-Investigation Procedures**

##### **11.3.1. Notice of Investigation**

When it is determined that a case is being forwarded for Formal Investigation and Resolution, the Investigators will send written Notification Letter to both the Claimant and the Respondent that an investigation has been initiated.

##### **11.3.2. Pre-Investigation Meetings with Claimant and Respondent**

The Notification Letter (see 11.3.1 above) will also serve to schedule separate meetings with each party. At this pre-investigation meeting, each party will receive a notice of charge letter which will include:

- a brief summary of the conduct at issue and the specific provision of the policy violation(s) that are alleged to have taken place.
- a review of expectations regarding confidentiality, retaliation, and any relevant no-contact directives.

- an explanation of the resolution process

The Claimant and Respondent will then have the opportunity to ask any questions. If the Claimant and/or Respondent have elected to have advisors throughout the process, each advisor is encouraged to accompany the party to this initial meeting. Support persons are also permitted to attend (see section 11.4.5. for details on these roles).

## **11.4 Formal Resolution**

### **Investigation**

Following the Initial Title IX Assessment, the College may initiate a formal investigation which will be prompt, thorough, and impartial. The Title IX Coordinator, in consultation with the Title IX team, will oversee the investigation. The investigation is designed to provide a fair and reliable gathering of the facts. All individuals in the investigation, including the Claimant, the Respondent, and any third-party witnesses, will be treated with appropriate sensitivity and respect. Consistent with the need for a full assessment of the facts, the investigation will safeguard the privacy of the individuals involved.

MICA will typically designate a team of two investigators who have specialized training and experience investigating allegations of sexual harassment and sexual misconduct. The investigators may be MICA employees or external investigator(s) engaged to assist the College in its fact gathering. In certain circumstances MICA may designate a single investigator or more than two investigators as is appropriate for the given report. Any investigator chosen to conduct the investigation must be free of any known or perceived bias or conflict of interest. The Claimant and the Respondent each have the right to request a different investigator if they know or perceive a bias or conflict of interest is present.

The investigator(s) will coordinate the gathering of information from the Claimant, the Respondent, and any other individuals who may have information relevant to the determination. The investigator(s) will also seek to gather any available physical or medical evidence, including documents, communications between the parties, and other electronic records as appropriate. The Claimant and Respondent will have an equal opportunity to be heard, to submit evidence, and to identify witnesses who may have relevant information.

The investigation will usually be completed within thirty (30) calendar days. Given the availability of witnesses or complexity of the circumstances, this time frame may be extended

as necessary to ensure the integrity and completeness of the investigation. The Claimant and Respondent will be updated regarding any changes to this timeframe.

At the request of law enforcement, MICA may agree to defer its Title IX fact gathering until after the initial stages of a criminal investigation. The College will nevertheless communicate with the Claimant regarding Title IX rights, procedural options, and the implementation of interim measures to assure safety and well-being. The College will promptly resume its Title IX fact gathering as soon as law enforcement has completed its initial investigation.

Information gathered during the investigation will be used to evaluate the appropriate course of action, provide for the safety of the individual and the campus community, and impose remedies as necessary to address the effects of the conduct cited in the report.

If the Investigation determines the Respondent is responsible, based on “a more likely than not” (a preponderance of evidence) standard, the Investigator(s) will then recommend appropriate sanctions to the Title IX Coordinator or Deputy. The Title IX Coordinator or Deputy will review the recommendations and approve an appropriate sanction(s).

The findings of the Investigation will be summarized in writing. This summary will detail the findings of fact and the basis/rationale for the decision of the finding, making reference to the evidence that led to the decision of the Investigator(s).

At the close of the investigation, the Investigator(s) will meet individually with the both the Claimant and the Respondent to explain the finding(s) of responsibility based upon the preponderance of evidence and any disciplinary sanctions. Notification to both parties will take place without significant time delay between notifications. 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 College records; or emailed to the parties’ College-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

Once informed, either party may choose to appeal the finding(s). See Section 11.5

#### **11.4.1. Witnesses**

The Claimant and Respondent have the right to request witnesses to be interviewed during the investigation. Witnesses must have observed the conduct in question or have information relevant to the incident and cannot be called solely to speak about an individual's character.

#### **11.4.2. Investigative Meetings**

It is the responsibility of the Investigator(s) to assure that the information necessary to make an informed decision is presented. The Investigator(s) play an active role in questioning both parties and witnesses involved in the case. At times, the Investigator(s) may need to ask difficult or sensitive questions in order to understand areas of factual dispute or to gain a full understanding of the context.

Parties and other individuals who offer information during an investigation are expected to respond honestly, and to the best of their knowledge. If necessary, the Investigator(s) reserves the right to recall any party or witness for further questions and to seek additional information to make a decision

#### **11.4.3. Relevance**

The Title IX Coordinator or Deputy will review the investigative report, any witness statements, and any other documentary evidence to determine whether the proffered information contained therein is necessary and material to the determination of responsibility given the nature of the allegation. In general, the Title IX Coordinator or Deputy may redact information that is irrelevant, more prejudicial than probative, or immaterial. The Title IX Coordinator or Deputy may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty.

#### **11.4.4. Prior Sexual History and/or Pattern Evidence**

**Prior Sexual History of a Complainant:** In general, a Claimant's prior sexual history is not relevant and will not be admitted as evidence in the investigation. Where there is a current or ongoing relationship between the Claimant and the Respondent, and the Respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. However, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual

history of the Claimant with other individuals is typically not relevant and will not be permitted.

**Pattern Evidence by a Respondent:** Where there is evidence of pattern of conduct similar in nature by the Respondent, either prior to or subsequent to the conduct in question, this information may be deemed relevant to the determination of assigning sanctions. The determination of relevance will be based on an assessment of whether the previous incident was substantially similar to the conduct cited in the report and indicates a pattern of behavior and substantial conformity with that pattern by the Respondent. Where there is a prior finding of responsibility for a similar act of sexual misconduct, there is a presumption of relevance and the finding may be considered in making a determination in the assigning of a sanction.

#### **11.4.5. Advisors, Support Persons, and Attorneys**

**Advisor:** In any meeting, the Claimant and Respondent may choose to be assisted by an advisor of their choosing. To assist parties in identifying an advisor, the Title IX Team maintains a list of campus community members who have undergone Title IX training and can guide individuals through the investigative process. The College recommends that each party select an advisor who has extensive knowledge of College policy and procedures. The advisor may accompany the individual party to any College investigative, administrative, or adjudicative meeting. For cases involving a claim of Sexual Misconduct, Domestic Violence, Dating Violence and/or Stalking, either party may choose to employ an attorney to serve as their advisor. An advisor may not advocate for, or speak on behalf of, a party at any stage of the proceedings, but may be present to provide counsel and advice.

**Support Person:** A Claimant and Respondent may also choose to be assisted by an emotional support person of their choice. The person must be a member of the MICA community (student, faculty, staff, or administrator), or a member of the Claimant's or Respondent's family (including life partners). To serve as a support person, the individual will be required to meet with the Associate Dean for Student Life and Judicial Affairs or the Title IX Coordinator in advance of any participation in the proceedings. The support person may accompany the individual to any College investigative, administrative, or adjudicative meeting.

The support person cannot be a witness in the investigation. The support person is a silent and non-participating presence who is there solely to observe and provide moral support during the process. This person is not to address the investigators, except to ask for a short recess if one of the parties requires some time to compose themselves or collect their thoughts. The

Investigators have the right at all times to determine what constitutes appropriate behavior on the part of a support person and whether the person may remain at the proceedings. While the support person may be present to hear testimony, no written materials are to be shared with support people.

Absent extenuating circumstances, witnesses and others involved in an investigation are not entitled to have a support person present. Witnesses may request a support person accompany them by submitting written notice to the Investigators a minimum of 24 hours in advance of their scheduled interview.

**Role of the Attorney/Outside Agreements:** The College prohibits outside attorneys or family members acting as attorneys from participating in proceedings under this policy except in the role of advisor (as defined above). A Claimant or Respondent may choose to seek the advice and assistance of an attorney at their own expense, but the attorney may not participate on behalf of a party in investigatory interviews, informal resolution proceedings, or formal resolution. An attorney may only be present as an advisor, and only in cases involving a claim of Sexual Misconduct, Domestic Violence, Dating Violence, and/or Stalking.

#### **11.4.6. Safeguarding of Privacy**

All participants involved in an investigation are required to keep the information learned throughout the process private. During the appeal period the full investigative report may be reviewed by either party. Copies or photographs of the full investigative report are not permitted. Parties may make an appointment with the Title IX Coordinator or Deputy to arrange for viewing. All copies provided must be returned to the College in full. Any breach of this requirement for privacy is subject to further disciplinary action by the College. Retaliation by any party toward any other participating individual in the investigation process will not be tolerated.

#### **11.4.7. Sanctions**

A student or employee found in violation of this policy may receive sanctions that include, but are not limited to, those set forth below. Sanctions may be issued individually or in combination. For further clarity on sanctions related to Sexual Violence, please see the Violations of Sexual Violence Matrix in Appendix C.

Students or employees found responsible for violating the Sexual Misconduct Policy may face sanctions up to and including expulsion and/or termination of employment. The appropriate sanctions will be determined by considering the following:

- the severity, nature, and impact of the violation,
- the Respondent's prior conduct history,
- the Respondent's ethical development,
- the on-going risk to the involved individuals and the College community, and
- the educational mission of the institution.

The Title IX Coordinator or designee may deviate from the range of recommended sanctions, based upon a full consideration of the following factors: (1) the Respondent's prior conduct history; (2) how the College has sanctioned similar incidents in the past; (3) the nature and violence of the conduct at issue; (4) the impact of the conduct on the Complainant; (5) the impact of the conduct on the community, its members, or its property; (6) whether the Respondent has accepted responsibility for their actions; (7) whether the Respondent is reasonably likely to engage in the conduct in the future; (8) the need to deter similar conduct by others; and (9) any other mitigating or aggravating circumstances, including the College's values.

The Title IX Coordinator may also consider restorative justice outcomes that, taking into account the safety of the community as a whole, allow a Respondent to learn about the origins of their behavior, their responsibility for this behavior, and how they can change this behavior.

**Sanctions that may be imposed under this policy include:**

**11.4.7.1. Students**

**Formal Warning:** Notice, in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.

**Disciplinary Probation:** Exclusion from participation in privileged activities for a specified period of time (privileged activities may include, but are not limited to, elected or appointed Student Voice Association offices, student research, some student employment, and study abroad). Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation or any other College policy violations may result in further disciplinary action.

**Restitution:** Repayment to the College or to an affected party for damages resulting from a violation of this Code. To enforce this sanction, the College reserves the right to withhold its transcripts and degrees or to deny a student participation in graduation ceremonies and privileged events.

**Removal from Campus Housing:** Students may be removed from College housing and/or barred from applying for campus housing due to disciplinary violations.

**Suspension:** Exclusion from College premises, attending classes, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Notice of this action will remain in the student's conduct file. Conditions for readmission may be specified in the suspension notice.

**Expulsion:** Permanent termination of student status and exclusion from College premises, privileges, and activities. This action will be permanently recorded on the student's academic transcript.

**Revocation of Admission and/or Degree:** Admission to, or a degree awarded by, the College may be revoked for fraud, misrepresentation in obtaining the degree or violation of College policies, or for other serious violations committed by a student prior to enrollment or graduation.

**Withholding Degree:** The College may withhold awarding a degree otherwise earned until the completion of the process set forth in this policy, including the completion of all sanctions imposed, if any.

Other sanctions may be imposed instead of, or in addition to, those specified here. Service, education, or research projects may also be assigned. More than one of the sanctions listed above may be imposed for any single violation.

In cases where suspension, dismissal, or expulsion is assigned as an outcome, the disciplinary action will go into effect at the conclusion of the appeal process, including any modification by the appellate. During the appeals process, a student who was issued suspension, dismissal, or expulsion may continue to attend class, unless otherwise directed, but may be prohibited from participating in, representing the College in or attending extra-curricular, co-curricular, and official College activities, such as Commencement, Study Abroad, and events or performances if it is determined that the health or safety of a student or the community is at risk. Additional

interim measures, such as those to ensure the safety of community members, may be put in place until the conclusion of the appeal process as deemed appropriate by the Title IX Coordinator or designee.

#### **11.4.7.2. Employee (Faculty and Staff)**

**Verbal Warning:** A conversation with employee that includes the concern and expectations going forward. The conversation may also include actions or resources by the supervisor or Human Resources to support improved behavior (i.e. training, meetings to discuss progress/challenges, Employee Assistance Program (EAP), etc.). A summary of the conversation is provided to the employee via email.

**Written Warning:** A document that is provided after a verbal conversation occurred, but the behavior continues. This document will reference previous conversations, additional concerns reported since the last conversation, expectations going forward and any actions or resources provided by the supervisor or Human Resources to support improved behavior. This document states that if the behavior does not significantly and immediately improve and this improvement is not sustained, other actions may take place up to and including termination of employment. The employee will sign the document acknowledging an understanding the content of the document.

**Last and Final Warning:** A document that is provided after a Written Warning has been delivered, but the behavior continues. This document will reference previous conversations, content of Written Warning, additional concerns reported since the last conversation, expectations going forward, and any actions or resources provided by the supervisor or Human Resources to support improved behavior. This document states that if the behavior does not significantly and immediately improve and is not sustained, other actions may take place up to and including termination of employment. The employee will sign the document acknowledging an understanding the content of the document.

**Termination of Employment:** Typically, termination of employment is a last resort and occurs after the above listed steps have been carried out. There may be situations that occur that are so severe that deem termination as an appropriate first step.

Please note the above listed steps are considered to be progressive. Depending on the severity of the situation, steps may be skipped or different action may take place.

## **11.5. Appeals**

All requests for appeals must be submitted in writing to the appropriate appellate officer within five (5) business days of the date of the outcome letter. The written appeal will be resolved by either the appropriate appellate officer, or the appropriate appellate panel. To receive consideration, a party's appeal must be full and complete upon its submission, including the basis for appeal and any supporting documentation.

Either the Claimant or Respondent may appeal, but appeals are limited to the following:

- A procedural error or omission occurred that significantly impacted the outcome of the case (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The sanctions fall outside the range of sanctions the College has designated for this offense.

The receipt of the appeal will be acknowledged in writing (which can include email). In cases involving opposing parties, when an appeal is filed the other party will be given the opportunity to review and respond in writing to the appeal. Any response by the opposing party must be submitted to the appellate officer within five (5) business days from receipt of the appeal. The appeals documents from each party will be considered together in one appeal review process. No hearing will be held. The appellate officer or panel will render its decision on the appeal based solely upon the party's written appeal, any response from the other party, and the record of the original investigation. The appellate officer's decision is final, and will be rendered within ten (10) business days of receipt of the response to the appeal or ten (10) business days from when the response to appeal period has ended, whichever comes first. In some instances, the appellate officer or panel may request that the case be reopened, in which case the Claimant and Respondent would be notified in person of the decision and the process moving forward.

If none of the above conditions are met, then the original decision will stand. If, however, any of the conditions are found to exist, the appellate officer or panel, will review the appeal and make a determination of the appropriate finding and/or outcome. The appellate officer or panel does not re-hear cases, but rather weighs the merits of the appeal and makes a decision in accordance with the evidence presented in the investigative report and in the appeal materials. All appeal decisions by the appellate officer or panel are final.

## **11.6. Integrity of Proceedings**

These procedures are entirely administrative in nature and are not considered legal proceedings. Neither party may audio nor video record the proceedings, nor is formal legal representation allowed.

## **11.7. Records**

The Title IX Coordinator will retain records of all reports and complaints, regardless of whether the matter is resolved by means of Title IX assessment, informal resolution, or formal resolution. Complaints resolved by means of Title IX assessment or informal resolution are not part of a student's conduct file or academic record or of an employee's personnel record.

Affirmative findings of responsibility in matters resolved through formal resolution are part of a student's conduct record and an employee's personnel record. Such records shall be used in reviewing any further conduct, or developing sanctions, and shall remain a part of a student's conduct record or an employee's personnel record.

Sanctions of termination, suspension, expulsion, and withdrawal pending disciplinary action are permanently noted on transcript or employee record. Such files are maintained by the College indefinitely. Conduct files for those who have not been suspended, expelled, or terminated are maintained for no fewer than seven years from the date of the incident. Further questions about record retention should be directed to the Title IX Coordinator or Deputy Coordinator.

## **12. Who to Contact**

**12.1 Emergency:** Call 911

**12.2 Seek Medical Assistance (Confidential):**

On Campus – Student Health Services 410-225-4118

Mercy Hospital (offers free Sexual Assault Nurse Examiner [SANE] program) 410-332-9477

University of Maryland at Midtown (nearest hospital to MICA) 410-225-8000

**12.3 Talk to Someone (Confidential):**

Emergency: 443-423-3333; ask for “on-call counselor”

On Campus –MICA Counseling Center/Student Health Services: 410-225-2367

TurnAround Inc – counseling, advocacy, and 24 hour hotline

24 hour helpline: 443-279-0379

Appointments: 410-337-8111

Sexual Assault Centers – Baltimore City: 410-837-7000, Baltimore County 410-337-8111

Maryland Network Against – 1-800-634-3577, mnadv.org

National Domestic Violence – 1-800-799-7233 (SAFE), ndvh.org

**Resources Available to Employees and Dependents (Confidential):**

Health Advocate – 855-558-2004, members.healthadvocate.com

**Report to Someone at MICA:**

Title IX Coordinator – Estevanny Turns 410-225-2363

Title IX Deputy Coordinator – Michael Patterson 410-225-2422

Title IX Specialist – Jeannette Holian 410-225-2363

Campus Safety – 443-423-3333 or 410-225-2245

**Report to Someone for a Criminal Investigation:**

Baltimore City Police – 911 or 410-369-2411

**Options for Changing Academic and Living Situations:**

Student Development Specialist 410-225-2422

**Support for Creating a Safety Plan, Acquiring Peace and Protective Orders, and Reporting to Law Enforcement:**

Campus Safety – 443-423-3333 or 410-225-2245

**Legal Assistance (Confidential):**

SALI (Sexual Assault Legal Assistance)

Legal services for civtims and survivors, [www.mcasa.org/sali](http://www.mcasa.org/sali), 1-877-496-7254(SALI)

**Women’s Law Center of Maryland (Confidential):**

Representation for protective orders, [www.wlcmd.org](http://www.wlcmd.org), 410-321-8761

**House of Ruth (Confidential):**

Intimate Partner Violence Center, [www.hruth.org](http://www.hruth.org) 24 hour helpline: 410-889-7884, Legal office: 888-880-7884

## **12.2 Where to go for Medical Attention**

Each of the following hospitals has a rape crisis protocol and the Maryland State Police Sexual Assault Evidence Kit.

- Mercy Hospital (SAFE Exam) 301 Saint Paul Place 410-332-9477 (closest to MICA)
- Franklin Square Medical Center 9000 Franklin Square Drive 443-777-7046
- Greater Baltimore Medical Center (GBMC) 6701 North Charles Street 443-849-2225

Additionally, transportation Mercy Hospital can be provided through Campus Safety at no charge via Campus Safety vehicle to and from Mercy Hospital. Please contact Campus Safety at 443-423-3333.

## **12.3 Sexual Assault Awareness – Educational & Counseling Programs**

MICA provides an array of educational programs and resources aimed at reducing or eliminating sexual violence. Examples of such programs are as follows:

- Rape Aggression Defense (RAD) training for women
- Resisting Aggression with Defense training for men
- Bystander training
- "Safety Walk" program
- Intimate Partner Violence education
- "One is too Many" educational campaign
- Alcohol and other drug abuse education

In addition, written information on the topics listed above will be available to students along with published crime statistics. Students also have the opportunity for on-campus confidential assessment and counseling, and referral for treatment to off-campus, community-based counseling services.

## **12.4 Statistical Reporting of On-Campus Incidents**

Since September 1, 1993, MICA, through its Campus Safety Guide, has published and distributed on-campus crime statistics, which include forcible and non-forcible sexual offenses, to all current students and employees. In addition, this document is provided to any applicant for enrollment or employment upon request. Anyone wishing more information is encouraged to contact the Office of Student Affairs, Admission Office, or the Human Resources



## **Appendix A:**

### **Maryland State Law Regarding Stalking**

#### **Md. Criminal law Code Ann. § 3-801. "Course of conduct" defined. (2002)**

In this subtitle, "course of conduct" means a persistent pattern of conduct, composed of a series of acts over time, that shows a continuity of purpose.

#### **Md. Criminal law Code Ann. § 3-802. Stalking. (2011)**

(a) "Stalking" defined. -- In this section, "stalking" means a malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear:

(1)

(i) of serious bodily injury;

(ii) of an assault in any degree;

(iii) of rape or sexual offense as defined by §§ 3-303 through 3-308 of this article or attempted rape or sexual offense in any degree

(iv) of false imprisonment; or

(v) of death; or

(2) that a third person likely will suffer any of the acts listed in item (1) of this subsection.

(b) Prohibited. -- The provisions of this section do not apply to conduct that is:

(1) performed to ensure compliance with a court order;

(2) performed to carry out a specific lawful commercial purpose; or

(3) authorized, required, or protected by local, State, or federal law.

(c) Applicability. -- A person may not engage in stalking.

(d) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$ 5,000 or both.

(e) Sentence. -- A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for any other crime based on the acts establishing a violation of this section.

### **Maryland State Laws Regarding Domestic Violence**

In general

(a) In this subtitle the following words have the meanings indicated.

Abuse

(b)(1) "Abuse" means any of the following acts:

(i) an act that causes serious bodily harm;

(ii) an act that places a person eligible for relief in fear of imminent serious bodily harm;

(iii) assault in any degree;

(iv) rape or sexual offense under §§ 3-303 through 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;

(v) false imprisonment; or

(vi) stalking under § 3-802 of the Criminal Law Article.

(2) If the person for whom relief is sought is a child, "abuse" may also include abuse of a child, as defined in Title 5, Subtitle 7 of this article. Nothing in this subtitle shall be construed to prohibit reasonable punishment, including reasonable corporal punishment, in light of the age and condition of the child, from being performed by a parent or stepparent of the child.

(3) If the person for whom relief is sought is a vulnerable adult, “abuse” may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article.

#### Child care provider

(c) “Child care provider” means a person that provides supervision and care for a minor child.

#### Cohabitant

(d) “Cohabitant” means a person who has had a sexual relationship with the respondent and resided with the respondent in the home for a period of at least 90 days within 1 year before the filing of the petition.

#### Commissioner

(e) “Commissioner” means a District Court Commissioner appointed in accordance with Article IV, § 41G of the Maryland Constitution.

#### Court

(f) “Court” means the District Court or a circuit court in this State.

#### Emergency family maintenance

(g) “Emergency family maintenance” means a monetary award given to or for a person eligible for relief to whom the respondent has a duty of support under this article based on:

- (1) the financial needs of the person eligible for relief; and
- (2) the resources available to the person eligible for relief and the respondent.

#### Executive Director

(h) “Executive Director” means the Executive Director of the Governor's Office of Crime

#### Control and Prevention.

#### Final protective order

(i) “Final protective order” means a protective order issued under § 4-506 of this subtitle.

#### Home

(j) “Home” means the property in this State that:

- (1) is the principal residence of a person eligible for relief; and
- (2) is owned, rented, or leased by the person eligible for relief or respondent or, in a petition alleging child abuse or abuse of a vulnerable adult, an adult living in the home at the time of a proceeding under this subtitle.

#### Interim protective order

(k) “Interim protective order” means an order that a Commissioner issues under this subtitle pending a hearing by a judge on a petition.

#### Local department

(l) “Local department” means the local department that has jurisdiction in the county:

- (1) where the home is located; or
- (2) if different, where the abuse is alleged to have taken place.

#### Person eligible for relief

(m) "Person eligible for relief" includes:

- (1) the current or former spouse of the respondent;
- (2) a cohabitant of the respondent;
- (3) a person related to the respondent by blood, marriage, or adoption;
- (4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of the petition;
- (5) a vulnerable adult;
- (6) an individual who has a child in common with the respondent; or
- (7) an individual who has had a sexual relationship with the respondent within 1 year before the filing of the petition.

#### Pet

(n)(1) "Pet" means a domesticated animal.

(2) "Pet" does not include livestock.

#### Petitioner

(o)(1) "Petitioner" means an individual who files a petition.

(2) "Petitioner" includes:

(i) a person eligible for relief; or

(ii) the following persons who may seek relief from abuse on behalf of a minor or vulnerable adult:

1. the State's Attorney for the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;
2. the department of social services that has jurisdiction in the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;
3. a person related to the child or vulnerable adult by blood, marriage, or adoption; or
4. an adult who resides in the home.

#### Residence

(p) "Residence" includes the yard, grounds, outbuildings, and common areas surrounding the residence.

#### Respondent

(q) "Respondent" means the person alleged in the petition to have committed the abuse.

#### Temporary protective order

(r) "Temporary protective order" means a protective order issued under § 4-505 of this subtitle.

#### Victim

(s) "Victim" includes a person eligible for relief.

#### Vulnerable adult

(t) "Vulnerable adult" has the meaning provided in § 14-101(q) of this article.

## Appendix B: Violations of Sexual Violence

<p style="text-align: center;"><b>Conduct</b> <b>(this is not an exhaustive list)</b></p>	<p style="text-align: center;"><b>Outcome Goal</b></p>	<p style="text-align: center;"><b>Recommended Sanction/Disciplinary Action</b></p> <p>The College has the option to alter default sanction as deemed necessary based upon the circumstances of the report and the respondents previous conduct history.</p>
<ul style="list-style-type: none"> <li>▪ Unwanted sexual exploitation/intimidation with no to minimal degree of sexual intrusiveness. Sexual exploitation is defined as:<sup>1</sup> <ul style="list-style-type: none"> <li>o taking non-consensual<sup>2</sup> or abusive sexual advantage of another,</li> <li>o for one’s own advantage or benefit,</li> <li>o or to benefit or advantage anyone other than the one being exploited.</li> <li>o Examples may include:                             <ul style="list-style-type: none"> <li>▪ Sexting of sexual gestures or media/ads</li> <li>▪ Sexually explicit voicemail</li> <li>▪ Sharing sexually explicit photographs</li> </ul> </li> </ul> </li> <li>▪ Non-consensual<sup>3</sup> sexual contact with no to minimal use of force/pressure and minimal degree of sexual intrusiveness.<sup>4</sup> <ul style="list-style-type: none"> <li>o Examples may include:</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Receive education on interpersonal communication, consent, and sexual harassment and misconduct</li> </ul>	<p><b>Students: Probation</b></p> <p style="text-align: center;"><b>Structured educational and reflective sanctions</b></p> <p><b>Employees: Structured educational and reflective sanctions, Written Warning, Last and Final Warning, and/or Termination</b></p>

<sup>1</sup> [Sexual Exploitation 4.4.4](#)

<sup>2</sup> [Consent 4.4.5](#)

<sup>3</sup> [Consent 4.4.5](#)

<sup>4</sup> [Non-consensual sexual contact 4.4.3](#)

<ul style="list-style-type: none"> <li>▪ Kiss on cheek</li> <li>▪ Brush up against breasts or genitals</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Unwanted sexual exploitation<sup>5</sup>, intimidation, or stalking<sup>6</sup> with objectively offensive sexual intrusiveness. Sexual exploitation is defined as: <ul style="list-style-type: none"> <li>o taking non-consensual<sup>7</sup> or abusive sexual advantage of another,</li> <li>o for one’s own advantage or benefit,</li> <li>o or to benefit or advantage anyone other than the one being exploited.</li> <li>o Examples may include: <ul style="list-style-type: none"> <li>▪ Spying/recording of sexual acts</li> <li>▪ Voyeurism</li> <li>▪ Indecent exposure</li> </ul> </li> </ul> </li> <li>▪ Non-consensual<sup>8</sup> sexual contact<sup>9</sup>: <ul style="list-style-type: none"> <li>o any intentional sexual touching,</li> <li>o with any object or body part,</li> <li>o by any person upon any person</li> <li>o without consent.</li> </ul> <p>Sexual Contact includes, but is not limited to: intentional contact with intimate parts of another, causing another to touch one’s intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth or any other part of the body that is touched in a sexual manner.</p> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Provide significant time and space to address concerning conduct</li> <li>▪ Prevent future occurrence</li> <li>▪ Community Safety</li> </ul>	<p><b>Students: Minimum one year suspension, with structured educational and reflective sanctions before approval to re-enroll will be granted</b></p> <p><b>Employees: Last and Final Warning and/or Termination</b></p>
<ul style="list-style-type: none"> <li>▪ Unwanted sexual exploitation, intimidation, or stalking with a high degree of sexual intrusiveness<sup>10</sup>. Sexual exploitation is defined as:</li> </ul>	<ul style="list-style-type: none"> <li>▪ Provide significant time</li> </ul>	<p><b>Students: Multi-year suspension,</b></p>

<sup>5</sup> [Sexual Exploitation 4.4.4](#)

<sup>6</sup> [State Definition of Stalking Appendix A](#)

<sup>7</sup> [Consent 4.4.5](#)

<sup>8</sup> [Consent 4.4.5](#)

<sup>9</sup> [Non-consensual Sexual Contact 4.4.3](#)

<sup>10</sup> [Sexual Exploitation 4.4.4](#)

<ul style="list-style-type: none"> <li>o taking non-consensual<sup>11</sup> or abusive sexual advantage of another,</li> <li>o for one's own advantage or benefit,</li> <li>o or to benefit or advantage anyone other than the one being exploited.</li> <li>o Examples may include: <ul style="list-style-type: none"> <li>● Sharing publicly a sexually explicit photo or recording</li> <li>● Indecent exposure</li> <li>● Stalking: a malicious course of conduct that includes the act of approaching or pursuing someone with the intention of placing that person in reasonable fear of serious bodily injury, assault, sexual violence, or other traumatic event.</li> </ul> </li> <li>▪ Non-consensual<sup>12</sup> sexual intercourse absent force/restraint, threats, or coercion (ie. lack of effective consent)<sup>13</sup> Non-consensual sexual intercourse is defined as: <ul style="list-style-type: none"> <li>o any sexual penetration,</li> <li>o with any object or body part,</li> <li>o by any person upon any person,</li> <li>o that is without consent.</li> </ul> <p>Sexual Intercourse includes, but is not limited to: Vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.</p> </li> </ul>	<p>and space to address concerning conduct</p> <ul style="list-style-type: none"> <li>▪ Prevent future occurrence</li> <li>▪ Community Safety</li> </ul>	<p><b>ineligible to return while claimant is enrolled. Structured educational and reflective sanctions before approval to re-enroll will be granted</b></p> <p><b>Employees: Termination of employment</b></p>
<ul style="list-style-type: none"> <li>▪ Non-consensual<sup>14</sup> sexual intercourse through force/restraint, threats, or coercion<sup>15</sup>. Non-consensual sexual intercourse is defined as:</li> </ul>	<ul style="list-style-type: none"> <li>▪ Permanent removal from</li> </ul>	<p><b>Students: Expulsion</b></p>

<sup>11</sup> [Consent 4.4.5](#)

<sup>12</sup> [Consent 4.4.5](#)

<sup>13</sup> [Non-consensual sexual intercourse 4.4.2](#)

<sup>14</sup> [Consent 4.4.5](#)

<sup>15</sup> [Non-consensual sexual intercourse 4.4.2](#)

<ul style="list-style-type: none"> <li>o any sexual penetration,</li> <li>o with any object or body part,</li> <li>o by any person upon any person,</li> <li>o that is without consent.</li> </ul> <p>Sexual Intercourse includes, but is not limited to: Vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.</p> <ul style="list-style-type: none"> <li>▪ Non-consensual<sup>16</sup> sexual intercourse with incapacitation<sup>17</sup>: <ul style="list-style-type: none"> <li>o Non-consensual sexual intercourse when victim is incapacitated (e.g., unconscious or in-and out- of consciousness)</li> <li>o Non-consensual sexual intercourse when victim is incapacitated through actions taken by the accused (e.g., supplying alcohol, drugging victim, encouraging victim to drink to the point of incapacity)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ College Community Safety</li> </ul>	<p><b>Employees: Termination of employment</b></p>
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<sup>16</sup> [Consent 4.4.5](#)

<sup>17</sup> [Non-consensual sexual intercourse 4.4.2](#)