

MARYLAND INSTITUTE COLLEGE OF ART (MICA)  
Sexual Misconduct Policy

# I. Purpose and Scope

Maryland Institute College of Art (“MICA”) is committed to providing an educational and work environment, that is free from discrimination, harassment, and retaliation. Sexual misconduct is a form of discrimination and will not be tolerated. The Sexual Misconduct Policy and Procedures (the “Policy” and these “Procedures”) implement MICA’s commitment to investigate and resolve cases involving sexual misconduct and retaliation promptly, fairly, equitably, impartially, and in compliance with Title IX of the Higher Education Amendments of 1972 (“Title IX”), the Campus SaVE Act, and other applicable local, state, and federal laws.

This Policy prohibits sexual misconduct that:

1. occurs on campus or other College property;
2. occurs in connection with College programs or activities, whether on or off-campus, including academic, educational, extracurricular, athletic and other programs and activities;
3. impedes equal access to any College educational program or activity or adversely impacts the education or employment of a member of the College community, regardless of where the conduct occurred; or
4. otherwise threatens the health or safety of one or more students, trainees, faculty members, staff members, or residents.

This Policy and its Procedures apply equally regardless of an individual’s sex, gender, marital status, pregnancy, race, color, ethnicity, national origin, immigration status, age, disability, religion, sexual orientation, gender identity or expression, military status, veteran status, or other legally protected characteristic. All academic and administrative units of the College (including all programs, divisions, departments, and centers) must comply and ensure that their policies and procedures comply with this Policy and its Procedures. To the extent there is any inconsistency between unit policies and procedures and this Policy and its Procedures, this Policy and its Procedures take precedence. All individuals who enter MICA’s campus and property are prohibited from engaging in any form of sexual misconduct as defined by this Policy, regardless of their affiliation with the College.

When a report of sexual misconduct is received, the Title IX Coordinator will assess the involved individual(s)' relationship with the College as well as the type, location, and context of the reported conduct to determine whether it should be addressed by this Title IX Policy, by MICA’s Procedures for Other Sexual Misconduct, or by another process. Regardless of the process applied, the Title IX Coordinator will take reasonable and appropriate supportive and responsive measures to address prohibited conduct under this Policy.

In some instances where the accused party (the “Respondent”) is *not* a student, staff member, faculty member, trainee or resident, some or all of the procedures outlined herein may not apply. In other instances, the College may determine that some or all of the procedures outlined herein should be applied to third parties (e.g., visitors; volunteers; vendors and contractors while on College property, participating in a College sponsored activity, or providing or receiving services to or from the College; applicants for admission to or employment with the College; and former

affiliates of the College). Regardless, the Title IX Coordinator will take reasonable and appropriate supportive and responsive measures to address prohibited conduct under this Policy.

Fundamental to MICA's purpose is the free and open exchange of ideas. It is not, therefore, the College's purpose in promulgating this Policy to inhibit free speech or the free communication of ideas by members of the community.

MICA may amend this Policy and these Procedures from time to time. Further, the Title IX Coordinator, in consultation with legal counsel, may from time to time make revisions and updates to this Policy and these Procedures to comply with applicable laws, court orders, regulations, and governmental guidance and any amendments thereto. Nothing in this Policy and these Procedures shall affect MICA's inherent authority to take such actions as it deems appropriate to further its educational mission and to protect the safety and security of the College's community.

Questions regarding this Policy and these Procedures and any questions concerning Title IX should be referred to MICA's Title IX Coordinator:

*Shanna E. Hines*  
*Vice President for People, Belonging & Culture*  
*Interim Title IX Coordinator*  
*1300 Mount Royal Avenue*  
*Baltimore, MD 21217*  
*410-225-2363*  
*shines@mica.edu*

## Applicability of Complaint Procedures

The United States Department of Education's Title IX Regulations, published on May 19, 2020, 85 FR 30026, mandate that the College use certain procedures in a narrow category of sexual misconduct cases considered to be under the jurisdiction of Title IX. Reports of Prohibited Conduct under this policy meeting the definitional and jurisdictional requirements of the regulations will follow those procedures—Procedures for the Resolution of Reports Alleging Sexual Misconduct Conduct Falling Within the Scope of Title IX ("Title IX Procedures"). The Title IX Procedures describe the nature of complaints that will be considered under those procedures.

Complaints that fall outside of the jurisdiction of the Title IX Procedures will be addressed as follows: All complaints that meet the definition of Prohibited Conduct under the Sexual Misconduct Policy but do not meet the jurisdictional requirements of the Title IX Procedures will be addressed through the Procedures for Other Sexual Misconduct (also known as the "Non-Title IX Procedures").

Complaints that do not meet the definition of Prohibited Conduct under the Sexual Misconduct Policy will be addressed through any of the other MICA policies and procedures as applicable, including MICA's Nondiscrimination and Anti-Harassment Policy, the Student Conduct process (for student Respondents), Student Grievance Procedure, or an employee or faculty discipline process (for employee and faculty Respondents).

This does not mean that any case is more or less important than another case, but instead a reflection of the fact that federal regulations apply only to a specifically identified set of cases (and the policy enunciated herein is applicable as so noted).

## II. Definitions

- A. Advisor:** a person chosen by a party to accompany them to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any. In Title IX Sexual Harassment investigations, both the complainant and respondent are entitled to have a Hearing Advisor in the event of a live hearing. If a party does not identify their own Hearing Advisor, the College will provide a Hearing Advisor to the party without fee or charge in the event of a live hearing. The Hearing Advisor may be, but is not required to be, an attorney. The Hearing Advisor also may be, but is not required to be, an individual whom a party has selected as a personal or legal supporter. A live hearing may take place either in person or virtually. During a live hearing, only one Hearing Advisor for each party may be present – no other supporter(s) may attend the hearing, whether virtual or in-person. For more information on the role of a Hearing Advisor – which includes conducting live questioning – *please see Appendix A– Procedures for Title IX Sexual Misconduct.*
- B. Anonymous Reports:** Reports of sexual misconduct filed with the College, including the Title IX Coordinator, may be filed anonymously, meaning that the reporter files the report without identifying themselves. Anonymous reporters are encouraged to speak with the Title IX Coordinator to understand the potential limitations for an investigation being conducted based on an anonymous report. Anonymous reporters are cautioned not to share details of the report with the Title IX Coordinator in the course of discussing the anonymous reporting process.
- C. Complainant:** The term “complainant” refers to an individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment or Other Sexual Misconduct, whether reported by the alleged victim or a third party.
- D. Confidential Resources:** A “Confidential Resource” is a formal College designation given to certain College employees and departments who are exempt from any Responsible Employee obligations under this Policy. Confidential Resources are not required to report sexual misconduct to the College. Confidential Resources include mental health providers and staff, healthcare providers and staff, pastoral counselors and staff, and any other persons who have a legal obligation to protect confidentiality when acting in a professional capacity unless there is an imminent threat to health or safety, or other basis for disclosure pursuant to law, such as mandatory abuse reporting. Individuals may ask Confidential Resources to describe any exceptions to confidentiality at the beginning of their conversation.
- E. Consent:** Sexual activity of any kind requires “consent,” which consists of the following:

1. Consent means clear and voluntary agreement between participants to engage in the specific act.
2. Consent requires a clear “yes,” verbal or otherwise; it cannot be inferred from the absence of a “no.”
3. Consent cannot be obtained from someone who is unconscious, asleep, physically helpless, or incapacitated (including, but not limited to, mentally incapacitated). A person is incapacitated when they are unable to make a rational decision because the person lacks the ability to understand their decision. A person who is incapacitated lacks the ability to voluntarily agree to sexual activity and is therefore unable to consent to sexual activity. A person can become incapacitated as a result of physical or mental disability, involuntary physical constraint, being asleep or unconscious, or consumption of alcohol or other drugs. A person can consume alcohol and/or drugs without becoming incapacitated, however, incapacitation is a state beyond general drunkenness or intoxication. A person who engages in sexual activity with someone that person knows or reasonably should know is incapacitated does not have consent and will be found responsible for a Policy violation.
4. Consent cannot be obtained by pressure, threats, coercion or force of any kind, whether mental or physical. Consent means agreeing to the specific sexual activity, rather than merely submitting as a result of pressure, threats, coercion or force of any kind, whether mental or physical.
5. Consent cannot be obtained from an individual who is under the legal age of consent.
6. Consent must be ongoing throughout a sexual encounter and can be revoked at any time.
7. Consent to some sexual acts does not necessarily imply consent to others.
8. Past consent does not mean ongoing or future consent.
9. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

**F. *Dating Violence:*** The term “dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse, but excludes acts covered under domestic violence.

**G. *Discrimination:*** The term “discrimination” means treating a member of the community unfavorably because that person is a member of a protected class. The College prohibits discrimination on the basis of: race, color, national origin, immigration status, ethnicity, age, disability, religion, sex, gender, pregnancy, military status, veteran status, marital status, sexual orientation, gender identity or expression, genetic information, or other legally protected characteristics.

- H. *Domestic Violence*:** The term “domestic violence” means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from the person’s acts under the domestic or family violence laws of the jurisdiction receiving grant monies. Domestic violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Domestic violence also includes offense that meets the definition of abuse as defined by the laws of the State of Maryland (Md. Code Ann., Fam. Law § 4-501, *et seq.*), as applicable.
- I. *Formal Complaint*:** The term “Formal Complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a respondent and requesting that the College investigate the allegation of Title IX Sexual Harassment. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, electronic mail, or online form, as provided below. A “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the Formal Complaint.
- J. *Interim Supportive Measures*:** The term “interim supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available, and without fee or charge to the complainant, respondent or other individuals involved in a matter, before or after the filing of any type of Title IX report or complaint. Such measures are designed to restore or preserve equal access to a college program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College’s educational environment, or deter Title IX Sexual Harassment or Other Sexual Misconduct. For examples of interim supportive measures, see below. To discuss or request interim supportive measures, please contact the Title IX Coordinator.
- K. *Non-Title IX Hostile Environment*:** A “non-Title IX hostile environment” results from unwelcome sexual or sex-based conduct that does not meet the definition of Title IX Sexual Harassment but is so severe, pervasive, or persistent that it unreasonably interferes with, limits, or deprives a member of the community of the ability to participate in or to receive benefits, services, or opportunities from the College’s education or employment programs and/or activities. A non-Title IX hostile environment can be the result of acts committed by any individual or individuals, including any member of the College community. To assess whether the alleged conduct has created a hostile environment under this definition, the College considers all relevant evidence, weighs a variety of factors, and evaluates the conduct at issue from both a subjective and objective perspective.
- L. *Non-Title IX Gender-Based Harassment*:** The term “non-Title IX gender-based harassment,” whether between people of different genders, or the same genders, includes,

but is not limited to, conduct that does not meet the definition of Title IX Sexual Harassment but otherwise constitutes unwelcome conduct based on gender that creates a non-Title IX hostile environment. Non-Title IX Gender-Based Harassment does not include unwelcome conduct of a sexual nature, which is considered non-Title IX Sexual Harassment.

**M. *Non-Title IX Sexual Harassment:*** The term "non-Title IX sexual harassment," whether between people of different sexes or the same sex, includes, but is not limited to, conduct that does not meet the definition of Title IX Sexual Harassment but otherwise constitutes unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, electronic or physical conduct of a sexual nature when:

1. The respondent is a non-employee and submission to such conduct is implicitly or explicitly a term or condition of an individual's participation in an educational program or activity;
2. The respondent is a non-employee and submission to or rejection of such conduct by an individual is used as the basis for academic decisions, evaluation or advancement; or
3. Such conduct creates a non-Title IX hostile environment ("non-Title IX hostile environment").

Examples of such conduct that may, depending on the facts and circumstances, constitute non-Title IX sexual harassment include, but are not limited to: making comments about someone's appearance in a sexually suggestive way; staring at someone or making obscene gestures or noises; repeatedly asking someone on a date; "flashing" or exposing body parts; sexual coercion; intentional sexual in nature touching that does not meet the definition of Title IX Sexual Harassment; disrobing; spreading sexual rumors; rating peers or colleagues with respect to sexual performance; non-consensual observation, photographing, or recording of sexual activity or nudity; non-consensual distribution or dissemination of photographs or recording of sexual activity or nudity, including distribution or dissemination of photographs or recordings that were made consensually; allowing a third party to observe a sexual activity without the consent of all parties; and prostituting or trafficking another person. In evaluating allegations of sexual harassment, the College considers all relevant evidence, weighs a variety of factors, and evaluates the conduct at issue from both a subjective and objective perspective. These conduct examples may constitute Title IX Sexual Harassment if they are accompanied by additional facts and circumstances that bring them within the definition of Title IX (e.g., the conduct occurred within the College's education program or activity.)

**N. *Non-Title IX Stalking:*** The term "non-Title IX stalking" means conduct that is not sex-based but still constitutes engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. For purposes of this definition, course of conduct means two or more acts, including, but not limited to, acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, surveils, threatens, or communicates with another person, or interferes with that person's property.

- O. *Other Sexual Misconduct:*** The term “Other Sexual Misconduct” includes all sexual misconduct that is not considered “Title IX Sexual Harassment.” This includes non-Title IX sexual harassment, non-Title IX gender-based harassment, and non-Title IX stalking. It also includes sexual assault, stalking, dating violence and domestic violence that does meet all of the jurisdictional requirements to be considered under the “Procedures for Title IX Sexual Harassment,” for example if the conduct occurred outside of the United States.
- P. *Preponderance of the Evidence:*** A “preponderance of the evidence” means it is more likely than not that a policy violation occurred (or did not occur) based on the evidentiary record.
- Q. *Respondent:*** The term “respondent” refers to an individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment or Other Sexual Misconduct.
- R. *Responsible Employee:*** Responsible Employee is a designation given to certain College employees who have a duty to report sexual misconduct that they learn of to the College’s Title IX Coordinator. “Responsible Employees” are designated based on the College’s determination that they have the authority to redress sexual misconduct, have the duty to report sexual misconduct to the Title IX Coordinator, or are employees who a student reasonably believes have such authority or duty. Confidential Resources are not Responsible Employees. Responsible Employees designated by the College include academic administrators, academic advisors, non-confidential employees serving in a supervisory role, department heads and chairs, directors, deans, student affairs staff, faculty, Human Resources personnel, campus security officers, and resident advisors. **Responsible Employees must promptly report all known relevant information to the Title IX Coordinator, including the name of the complainant, respondent, and any witnesses and any other relevant facts, including the date, time, and location of the misconduct.**

Employees who are also licensed medical providers do not have a Responsible Employee obligation when providing patient care where the patient information that constitutes a report of potential sexual misconduct is protected by applicable patient privacy laws. If you have any question about whether you are a Responsible Employee or questions regarding your Responsible Employee duties, please promptly contact the Title IX Coordinator for clarification.

- S. *Relationship Violence:*** The term “relationship violence” means dating violence and domestic violence.
- T. *Retaliation:*** The term “retaliation” means intimidating, threatening, coercing, harassing, taking adverse employment or educational action against, otherwise discriminating against an individual in any way, and/or interfering with any right or privilege secured by Title IX or its implementing regulations, including through online communications and activities such as social media, because the individual made a report or complaint under this Policy

or these Procedures, participated in any way in the investigation or resolution of such a report or complaint, opposed conduct that they reasonably believed to be prohibited under this Policy, these Procedures, or applicable law regarding discrimination or harassment, or exercised any right or responsibility under this Policy or these Procedures. Retaliation includes conduct that is reasonably likely to deter an individual from making a complaint or report under this Policy or from participating in the investigation or resolution of a complaint or report, or from opposing conduct that they reasonably believe to be prohibited under this Policy, these Procedures, or applicable law regarding discrimination or harassment.

**U. Sexual Assault:** The term “sexual assault” includes the following actual or attempted acts:

1. **Rape (except Statutory Rape):** The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
2. **Statutory Rape:** Non-forcible sexual intercourse with a person who is under the statutory age of consent.
3. **Sodomy:** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
4. **Sexual Assault With An Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. This includes digital penetration.
5. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
6. **Incest:** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
7. Any offense that meets the definition of rape or sexual offenses, as defined by the laws of the State of Maryland (Md. Code Ann., Crim. Law § 3-303, *et seq.*).

**V. Sexual Misconduct:** The term “sexual misconduct” refers to both "Title IX Sexual Harassment" and "Other Sexual Misconduct."

**W. Title IX Sexual Harassment:** The term “Title IX Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning educational benefits on participation in unwelcome sexual conduct (*quid pro quo*);
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive *and* objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity; and/or
3. Sexual Assault, Dating Violence, Domestic Violence, or Title IX Stalking.

Even when alleged conduct falls under this definition of “Title IX Sexual Harassment,” additional criteria must be met to trigger the application of the Procedures for Title IX Sexual Harassment. To determine which procedures, apply, an assessment will be conducted.

- X. *Title IX Stalking*:** The term “Title IX stalking” means, on the basis of sex, engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others, or suffer substantial emotional distress. For purposes of this definition, course of conduct means two or more acts, including, but not limited to, acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates with another person, or interferes with that person’s property.

### III. Prohibited Conduct

MICA prohibits sexual misconduct, as defined above. The College also prohibits any form of retaliation, intimidation, threats, coercion, or discrimination or attempts thereof, whether direct or indirect, and including via online communications and activities such as social media, by any officer, employee, faculty, student, trainee, resident, or agent of the College against a person because that person made a complaint or report of sexual misconduct or participated in any way in the investigation or resolution of such a complaint or report, or who exercises their rights or responsibilities under the Policy, these Procedures, or the law.

Thus, sexual misconduct and retaliation are violations of this Policy, and the Procedures set forth in Appendices apply to the investigation and resolution of reports and complaints of violations as set forth herein. Any person with a concern or complaint about a violation of this Policy is urged to contact the Title IX Coordinator. Each member of the community is responsible for fostering mutual respect, for being familiar with this Policy, and for refraining from conduct that violates this Policy.

The College prohibits filing complaints or reports of sexual misconduct or retaliation that the complainant knows to be false.

The College will take appropriate remedial action in response to violations of this Policy, up to and including expulsion and/or termination.

Conduct that is not considered sexual misconduct under the definitions in this Policy may nevertheless be inappropriate or unacceptable within the MICA community. When appropriate,

the Title IX Coordinator will report such conduct to the relevant internal College department or authority such as Human Resources, Student Affairs, or the relevant department or dean to determine and implement appropriate responsive action, whether under the College's Nondiscrimination and Anti-Harassment Policy, Student Code of Conduct, employment policies, faculty handbook, or any other policy of the College.

## VI. Reporting Sexual Misconduct

MICA encourages students, faculty, staff, and other members of the community to report sexual misconduct, and to do so as promptly as possible, so that the College can respond effectively.

MICA will respond to all reports of sexual misconduct in a timely manner, using informal and formal procedures designed to eliminate the conduct, prevent its recurrence, and remedy any adverse effects of the conduct on members of the campus community or in the College's programs and activities. Some forms of Sexual Harassment may also violate federal, state, and local criminal laws, and criminal prosecution may occur independently of any actions taken by MICA.

### The Role of the Title IX Coordinator

MICA has designated a Title IX Coordinator to oversee the College's response to reports of Sexual Harassment and Sexual Misconduct; spearhead implementation of this Policy; and ensure compliance with Title IX and applicable federal, state, and local laws. MICA's Interim Title IX Coordinator is Shanna E. Hines, Vice President for People, Belonging & Culture:

*Shanna E. Hines  
Vice President for People, Belonging & Culture  
Interim Title IX Coordinator  
1300 Mount Royal Avenue  
Baltimore, MD 21217  
410-383-6616  
shines@mica.edu*

The Title IX Coordinator maintains broad oversight responsibility but may delegate responsibilities under this Policy to designated administrators or external professionals who will have appropriate training and/or experience. When used in this Policy, the term Title IX Coordinator may include an appropriate designee.

The Title IX Coordinator and designated staff will:

1. Communicate with all members of MICA's community regarding applicable laws and policies and provide information about how individuals may access resources and reporting options;
2. Maintain and implement policies to ensure institutional compliance with applicable laws;

3. Ensure that all students and employees have access to education and training regarding Title IX, related provisions of the Clery Act, and Sexual Harassment as defined in this Policy.
4. Respond to any report regarding conduct that may violate this Policy and:
  - a. Direct the provision of any Supportive Measures.
  - b. Oversee the prompt and equitable investigation and resolution of reported Sexual Harassment.
  - c. Take appropriate action to respond to reports of Sexual Harassment, prevent its recurrence, and remedy its effects.
  - d. Maintain centralized records of all reports, investigations and resolutions.

## Reporting to the College

Individuals are encouraged to file reports of sexual misconduct and retaliation directly with the Title IX Coordinator. Reports can also be submitted electronically using our [online complaint submission form](#):

*Shanna E. Hines*  
*Vice President for People, Belonging & Culture*  
*Interim Title IX Coordinator*  
*1300 Mount Royal Avenue*  
*Baltimore, MD 21217*  
*410-383-6616*  
[shines@mica.edu](mailto:shines@mica.edu)

Reports can be made at any time – including during non-business hours – in person, or by calling the listed telephone number, emailing the Title IX Coordinator or any of the administrators listed below at their email address, or by any other means that results in the Title IX Coordinator receiving your verbal or written report.

The Title IX Coordinator is available to meet with individuals to discuss the policy, the options for making a complaint, support services including interim measures, accessing medical attention, academic accommodations, confidential counseling resources, and any other questions related to MICA's response to interpersonal violence. Anyone in the MICA community who is approached by someone claiming to have experienced an incident of sexual or gender-based misconduct or other form of interpersonal violence is encouraged to direct or accompany that person to meet with the Title IX Coordinator or to make a report themselves.

As noted above, in addition to reporting to the Title IX Coordinator, reports of sexual misconduct and retaliation may also be brought to the following individuals:

1. Michael Z. Patterson, Vice President of Student Affairs and Dean of Students, [mpatters@mica.edu](mailto:mpatters@mica.edu)
2. Robert Alicea, Director of Residence Life, [ralicea@mica.edu](mailto:ralicea@mica.edu)

**Report versus Formal Complaints:** MICA is committed to responding to all reports of sexual misconduct of which it has actual knowledge. It is important to note that a **Report** of sexual misconduct is not necessarily the same as a **Formal Complaint**. The term “Formal Complaint” refers to a document, or electronic submission, including email, filed/transmitted by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and specifically requesting that MICA investigate the alleged misconduct.

It is important to note that reporting sexual misconduct does not always automatically trigger a formal investigation. A formal complaint must include the reporting party’s signature and specifically request an investigation. In contrast, a report is a manner of submitting the information to MICA’s attention and can be done without the reporting party having already decided whether they are seeking a formal investigation or not.

Upon receipt of such report, the Title IX Coordinator or designee, will initiate contact with the complainant whenever their contact information has been included; conduct a risk assessment; offer supportive measures; and discuss the available options by which the complainant can proceed, which may include a formal investigation. Notably, a complainant may file a report of sexual misconduct, but notwithstanding, request that an investigation not be conducted. In other words, under certain circumstances, reporting can occur, and the information noted, but a formal investigation may not necessarily commence.

MICA respects the autonomy of complainants and will provide complainants with the information and support they need to decide whether they would prefer that an investigation be conducted. If a complainant requests that no investigation be conducted, the Title IX Coordinator will independently determine whether to investigate the allegations, weighing the complainant’s interest in confidentiality against any risk that not investigating the incident may contribute to a hostile environment or pose a threat to the safety and security of MICA’s community.

Anyone may meet with the Title IX Coordinator or a designee to learn more about the process before making a report or Formal Complaint.

If you want to file a Formal Complaint of Title IX Sexual Harassment, submit your written report describing the allegations and specifically requesting an investigation, and sign the written report, or if conveying the information electronically, clearly indicate that you are requesting a formal investigation. Formal Complaints can be submitted electronically (e-mail) or in hard copy. You may, but are not required to, [use this form to file a Formal Complaint](#).

Please know that you can submit a report and then later decide to file a Formal Complaint.

If a complainant is under the age of 18 (i.e., a minor), the complainant’s parent or legal guardian may be informed of any report of sexual misconduct made by or on behalf of the complainant. Parental or guardian requests on behalf of a minor that a complaint be kept confidential or that an investigation not proceed will be handled in the same manner as such requests by a complainant over the age of 18. As appropriate, the parent or legal guardian may also be informed of the status of any investigation or resolution of the matter. Matters involving minors will be addressed pursuant to applicable law.

When a third party (e.g., a faculty member, resident advisor, friend, or roommate) reports a sexual misconduct incident, the Title IX Coordinator or a designee will promptly notify the complainant

that a report has been received, and these Procedures will apply in the same manner as if the complainant had made the initial report.

Upon receiving a report of sexual misconduct, whether from a third party or directly from the complainant, the Title IX Coordinator or a designee will discuss available options, interim supportive measures, and on- and off-campus resources with the complainant. If we receive an anonymous report, the Title IX Coordinator or designee will provide the above information if the anonymous reporter has provided a way for us to send the same.

**Anonymous Reports:** Reports may be made anonymously using any of the reporting options above and mentioned throughout this herein policy. To make an anonymous report by any method above, do not provide any personally identifiable information (such as name, College email, personal email that discloses your name, College phone number) when making the report. Note that Responsible Employees (discussed above and throughout) who receive reports or otherwise become aware of sexual misconduct are required to promptly report this misconduct to the Title IX Coordinator.

Anonymous reporters are encouraged to speak with the Title IX Coordinator or a designee so as to understand the potential limitations of investigations based on anonymous reports. MICA will review anonymous reports to determine whether preventive or remedial action should be taken, such as prevention or educational programs, or increased safety patrols or monitoring.

**Reporting to Law Enforcement:** In an emergency, contact 911 to reach local law enforcement. A listing of Campus Security and local law enforcement contact information is available in *Appendix D*. Campus Safety or the Title IX Coordinator can also assist with contacting local law enforcement.

**Speaking with Confidential Resources:** If a complainant does not wish to make a report or complaint to the College, the complainant may contact a Confidential Resource. *See Appendix E* for a list of other Confidential Resources, both on and off-campus.

## Independence and Conflict of Interest

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact MICA's Vice President of People, Belonging, and Culture. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator. Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to MICA's Vice President of People, Belonging, and Culture. Reports of misconduct or

discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator. Investigations involving misconduct or discrimination committed by the Title IX Coordinator or a member of the Title IX Team will be conducted by an external investigator appointed by the Vice President of People, Belonging and Culture.

## Notice of Rights & Interim Supportive Measures

Upon receiving a report of sexual misconduct, the College will provide the complainant with a written explanation of their rights, options, and responsibilities and the resources available to assist the complainant, including notifying the complainant of the Sexual Misconduct Policy and Procedures. The Title IX Coordinator or designee will promptly contact the complainant to discuss the availability of interim supportive measures (regardless of whether a Formal Complaint is filed), the complainant's wishes with respect to supportive measures, and the process for filing a Formal Complaint.

### A. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to MICA's education program or activity, including measures designed to protect the safety of all parties or MICA's educational environment, and/or deter harassment, discrimination, and/or retaliation. *See Appendix C for list of possible Supportive Measures*

### B. Maintenance of Records

The College will maintain a record of all reports of sexual misconduct and related evidence, documents, records, and information pertaining to the investigation and resolution of Formal Complaints. The College will also maintain a record of supportive measures offered to complainants and respondents and all training materials related to the Policy. These records will be maintained in accordance with applicable policies, procedures, and legal requirements. This information will be used by the Title IX Coordinator to help determine whether multiple complaints have been made against the same individual and to document the incidence and any patterns of sexual misconduct in the College community.

### C. Amnesty Provisions for Students

Sometimes individuals may be reluctant to report instances of sexual misconduct because they fear being charged with violations of other College policies, including those regarding alcohol or drugs. The College encourages students to report all instances of sexual misconduct. The College will not impose disciplinary action, except for a mandatory intervention for substance abuse, for a violation of alcohol or drug policies for a student who reports to the College or law enforcement an incidence of sexual misconduct or who participates in an investigation of sexual misconduct as a witness if:

(1) the College determines the violation occurred during or near the time of the alleged sexual misconduct;

(2) the student is determined to have made the report of sexual misconduct or is participating in an investigation as a witness in good faith; and

(3) the College determines that the violation was not an act that was reasonably likely to place the health or safety of another individual at risk.

## Reporting to Law Enforcement or Government Agencies

Depending on the facts and circumstances, sexual misconduct may involve criminal activity. The College encourages students, faculty, staff, and other members of its community to report any potential criminal conduct to law enforcement authorities, and the College may do so in exceptional circumstances such as a health or safety emergency.

The College has campus security officers who are specially trained to work with individuals reporting sexual misconduct. Upon request, Campus Safety or the Title IX Coordinator or a designee will assist an individual wishing to contact law enforcement, including those seeking to obtain orders of protection, peace orders, civil no-contact orders, restraining orders, or similar orders issued by a criminal or civil court. The College will notify complainants of the availability of this assistance. Contact information for Campus Safety and local law enforcement is available at *Appendix D*.

Reporting an incident to law enforcement authorities does not preclude filing a report or complaint with the College. Individuals may file a report or complaint of sexual misconduct under this Policy before, after, or simultaneously with reporting an incident to law enforcement, or if no report is made to law enforcement at all. Whether or not an incident results in a criminal investigation, prosecution, or conviction, the College will decide, pursuant to these Procedures, whether the respondent has violated the Policy and, if so, the appropriate sanctions to impose.

## Clery Reporting Obligations

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”) requires the College to record and report certain information about certain crimes (including certain sexual misconduct incidents) that occur on or near campus. Certain College employees who are designated as Campus Safety Authorities (CSAs) and who receive reports of certain types of sexual misconduct are required by the Clery Act and the College to notify Campus Safety and Security about such incidents for statistical reporting purposes. The College reports crimes as required by the Clery Act in its *Clery Crime Log, and Annual Security and Fire Safety Report* available online (insert link to report) on the Campus Safety website. The Clery Act also requires the College to issue a “timely warning” when it receives a report of certain crimes that pose a serious or continuing threat to the safety of the campus community. Campus Safety will issue timely warnings in accordance with the College’s Timely Warning procedures. The complainant’s identity and personal information will not be included in any timely warning or security notification, or in any publicly available record-keeping, including the disclosure of crime statistics in the Annual Security and Fire Safety Report.

## Other Reporting Options

Inquiries or complaints concerning the application of Title IX or the College's handling of sexual misconduct reports may be referred to the Department of Education's Office for Civil Rights. Employee reports may also be referred to the U.S. Equal Employment Opportunity Commission, or the Maryland Commission on Civil Rights (for Maryland employees). Contact information is in *Appendix G*. In addition, participants in programs funded by other federal agencies may also file a complaint directly with those agencies.

## VIII. Confidentiality and Confidential Resources

If an individual desires to keep the details of any sexual misconduct incident confidential, the individual may speak to a Confidential Resource, (*listed in Appendix E*). Information shared with Confidential Resources does not constitute a report or complaint filed with the College for the purpose of instituting an investigation or resolution of a sexual misconduct complaint.

In the case of a report to a Responsible Employee or the Title IX Coordinator, a complainant may request confidentiality at any point up to the filing of a Formal Complaint under the Title IX Sexual Harassment Procedures or the initiating of an investigation under the Other Sexual Misconduct Procedures. For example, the complainant may ask that the complainant's identity not be disclosed to anyone else, including the respondent, or that information about the incident not be shared with others. The Title IX Coordinator will consider any requests for confidentiality or requests that an investigation not be pursued in light of legal requirements and the College's commitment to provide a safe and non-discriminatory environment for all members of the community.

For example, if the Title IX Coordinator concludes that the allegations about the respondent suggest a threat to the community or learns of other information that warrants or necessitates investigation, the request for confidentiality may not be granted. If the College honors a request for confidentiality, the College's ability to investigate and respond to the reported misconduct and pursue disciplinary action against the respondent may be limited. The College will however take all reasonable steps to respond to the report consistent with a request for confidentiality. If the Title IX Coordinator determines that the College will not honor a complainant's request for confidentiality, the Title IX Coordinator or a designee will inform the complainant prior to starting an investigation. If the complainant or the Title IX Coordinator files a Formal Complaint of Title IX Sexual Harassment, written notice of the complaint will be provided to both parties and will include the identity of the complainant. Written notice will also be provided to parties in Other Sexual Misconduct investigations.

In all circumstances, the College will make appropriate interim supportive measures available, provide access to resources, and take such other actions as necessary and appropriate to protect the safety and security of the parties and the College community. In order to maintain confidentiality, a student may seek information from officials (including from the Title IX Coordinator) about their rights and options, including interim supportive measures, without disclosing the underlying offense.

## Statute of Limitations

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to MICA's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

## Expectation Regarding Unethical Relationships

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty member and student or supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power or authority. Similarly, the relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Circumstances may change, and conduct that was once welcome may, at some point in the relationship, become unwelcome.

Even when both parties have initially consented to romantic or sexual involvement, the possibility of a later allegation of a relevant Policy violation still exists. MICA does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of MICA. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., faculty-student, staff-student) are prohibited. They may also violate standards of professionalism and/or professional ethics.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or otherwise evaluative role over the other party are inherently problematic. Therefore, persons with direct supervisory or otherwise evaluative responsibilities who are involved in such relationships must bring these relationships to the timely attention of their supervisor and/or the Title IX Coordinator. The existence of this type of relationship will likely result in removing the supervisory or evaluative responsibilities from the employee or shifting a party from being supervised or evaluated by someone with whom they have established a consensual relationship. When an affected relationship existed prior to adoption of this policy, the duty to notify the appropriate supervisor still pertains.

This type of relationship includes student Resident Advisors (RAs) and other students over whom the RA has direct responsibility. The Title IX Coordinator will determine whether to refer violations of this provision to Human Resources for resolution, or to pursue resolution under this Policy, based on the circumstances of the allegation.

MICA reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

## IX. General Procedures Applicable to All Sexual Misconduct Reports

### Communications During Sexual Misconduct Cases

Complainants and respondents are expected to check their official College email on a regular basis throughout any complaint investigation and resolution process. College email is the primary way in which complainants and respondents will receive communications from the Title IX Coordinator, and (where applicable) from those involved in the Decision Panel process.

### Supporters (for both Title IX Sexual Harassment and Other Sexual Misconduct)

If they choose, the complainant and the respondent each may identify one or two supporter(s) to assist and advise them throughout the investigative and resolution process (including hearing, sanctioning, and appeals). If a party chooses to have two supporters, only one can be a personal supporter (i.e., someone who is not serving as legal counsel or advocate, for example, a friend, parent, or legal guardian) and only one may be an attorney, an advocate supervised by an attorney, or a trained advocate).

The supporter(s) may physically or virtually accompany the party to and attend any meeting, interview or hearing held pursuant to this Policy, except where noted below for Title IX Sexual Harassment hearings.

Prior to participating in the investigation or resolution process, the supporter(s) shall be apprised of their rights, role, and process by the Title IX Coordinator, investigator, or other designee.

During any meeting, hearing, or interview under these Procedures, the supporter(s) (whether or not legal counsel) may privately advise and consult with the party, except during questioning of the party at a hearing.

The supporter(s) may not speak on the party's behalf or otherwise participate, or address or question the investigator, Decision panel, or other parties or witnesses (except where noted below for Title IX Sexual Harassment hearings).

The supporter(s) may make written submissions on their party's behalf.

College personnel employed in the offices responsible for disciplinary proceedings described in these Procedures, along with those in the chain of command above them, and others whose participation could create a conflict of interest and/or reasonably call into question the impartiality of the College's process are not eligible to serve as supporters. If there is a question or concern about a possible supporter, please consult with the Title IX Coordinator.

Both the complainant and the respondent and any supporters will have access to a neutral staff member within the College to explain and answer any questions about the disciplinary process.

## Attorneys for Student Sexual Assault Matters

In Title IX Sexual Harassment investigations that involve allegations of Sexual Assault by or against a current or former student, the student parties may have access to free legal counsel through the Maryland Higher Education Commission:

Maryland law (Education Article section 11-601) provides that a party (whether the complainant or respondent) who would like to be assisted by legal counsel during an investigation under this Policy is permitted to access counsel paid for by the Maryland Higher Education Commission (“MHEC”) if:

- the party is a current or former student;
- the party makes or responds to a complaint alleging an incident of sexual assault;
- the party was enrolled as a student at the College at the time of the alleged incident when the Title IX Coordinator decided to investigate the complaint.

Under these circumstances, and assuming funding is available, MHEC is required to pay the reasonable costs and attorney’s fees for students who access legal counsel. A student who is authorized to access legal counsel paid for by MHEC may select their counsel from a list of attorneys and legal services programs developed by MHEC. Alternatively, if a student selects and retains an attorney who is not on MHEC’s list, MHEC will pay fees to the attorney selected by the student that are equivalent to those paid to attorneys under civil legal services programs administered by the Maryland Legal Services Corporation. A student may select and retain legal counsel at any time prior to the conclusion of the investigative and resolution process.

Notwithstanding the foregoing, the complainant and/or the respondent may knowingly and voluntarily choose not to have legal counsel. MICA is not responsible for the provision of attorneys through MHEC (or any other source) or the payment of any attorneys’ fees and cannot guarantee that attorneys or funding for attorney’s fees will be available from MHEC. The following MHEC webpage provides more information, including a list of participating attorneys: <https://mhec.maryland.gov/Pages/Title-IX-Campus-Sexual-Assault-Proceedings---Attorney-List.aspx>.

## Time Frames and Updates

The College seeks to resolve all sexual misconduct cases as promptly as reasonably possible. The Title IX Coordinator is responsible for coordinating the investigation of a complaint, which typically takes approximately 30 - 90 days, and results in the Title IX Coordinator or designated investigator providing an investigative report to the appropriate decision-making entity.

Following the investigation, the decision-making entity then determines the outcome, including whether the Policy was violated and, if so, any appropriate sanctions. This post-investigation

adjudication process typically takes an additional 30 - 60 days. Adjudication timelines may be impacted by the factors described below. In addition, matters being handled under the Title IX Sexual Misconduct Policy and corresponding procedures may take longer to resolve than those handled under the Procedures for Other Sexual Misconduct due to the requirement of a live hearing with cross-examination.

- The length of the investigation, adjudication and/or appeal may be impacted by various factors including, but not limited to,
- the nature and scope of allegations;
- the number of witnesses;
- availability of witnesses, parties, party supporters and Hearing Advisors;
- voluminous documentary evidence;
- the need for language assistance or accommodation of disabilities;
- evidence gathering in a concurrent law enforcement investigation; and
- the academic calendar (e.g., exam periods, breaks).

In addition, for investigation and adjudication pursuant to the Title IX Sexual Misconduct Policy and applicable procedures, the timelines may be impacted by the mandatory 10-day review period for the Evidence File, the mandatory 10-day review period for the investigative report; and by the mandatory live hearing with cross-examination.

Additional time is needed to process any appeal, as discussed further below and in the procedural appendices.

The investigator and the decision-making entity or appeal officer (for adjudication and appeals) may extend the above time frames for good cause with written notice to the complainant and respondent. Good cause includes, but is not limited to, the factors listed in the above paragraph. The College will provide the complainant and respondent with periodic updates on the status of the case, as well as timely written notice of scheduled meetings, hearings, and interviews in which they are required or permitted to attend.

The time frame for informally resolving a sexual misconduct complaint is generally 30-60 days depending upon the availability and engagement of the parties and any supporters.

## Evidence and Credibility Determinations

All relevant evidence will be objectively evaluated, including both inculpatory and exculpatory evidence.

Nothing in this Policy should be interpreted to restrict the parties from discussing the allegations under investigation or from gathering and presenting relevant evidence. However, retaliation and conduct that has the purpose or effect of interfering with the College's response to or investigation of a report of sexual misconduct is prohibited and may constitute a violation of this and/or other applicable policies.

Evidence and questions that constitute or seek disclosure of information protected under a legally recognized privilege will not be required, allowed, relied upon, or otherwise used, unless the person holding such privilege has waived the privilege.

Credibility determinations may not be based on a person's status as a complainant, respondent, or witness.

## Not Responsible Presumption

The investigation and adjudication process determines whether the preponderance of the evidence supports a determination that the respondent is responsible for the alleged misconduct. Until and unless the decision-making entity or Appeal Officer issues a final determination of responsibility, the respondent is presumed to be not responsible.

## Conflicts of Interest

All persons participating in the investigation or resolution (including informal resolution, hearing, sanctioning and appeals) of sexual misconduct cases may not have a conflict of interest or bias for or against complainants or respondents generally or for or against an individual complainant or respondent. This includes the Title IX Coordinator, investigator(s), members of the decision-making entity, Appeal Officer, and any person who facilitates an informal resolution process. All such individuals should disclose any potential or actual conflict of interest to the Title IX Coordinator. The Title IX Coordinator is responsible for sharing relevant information with the complainant and respondent.

If either party believes that any person involved in the process has a conflict of interest, they may make a request to the Title IX Coordinator that the individual not participate. Any such request should include a description of the alleged conflict. If the Title IX Coordinator determines that a disabling conflict of interest exists, the Title IX Coordinator will take steps to address the conflict in order to ensure an impartial process.

## Training for Officials Conducting the Investigation and Hearings

The Title IX Coordinator, investigator(s), members of the decision-making entity, Appeal Officers, and any person who facilitates an informal resolution process will, at a minimum, receive all required and applicable training on issues including, but not limited to, definitions of and related to sexual misconduct, how to conduct an investigation and grievance process, determinations of relevance, how to facilitate informal resolutions, and how to identify conflicts of interest and bias.

## Education and Training

MICA has a variety of education programs to promote prevention and awareness of sexual misconduct for students and employees. MICA offers training on sexual misconduct at orientation

for new students and employees, as well as enhanced ongoing prevention and awareness campaigns that address sexual misconduct for students and employees. For information regarding training programs, including online training, contact the Title IX Coordinator.

## Assessment to Determine Appropriate Procedures

When the Title IX Coordinator receives a complaint or report of sexual misconduct, the Title IX Coordinator determines whether the appropriate procedures for resolution are:

1. Procedures for Title IX Sexual Harassment (this Policy and applicable procedures); or
2. Procedures for Other Sexual Misconduct (Appendix B).

This assessment involves considering the federally mandated criteria for Title IX Sexual Harassment grievance procedures:

- Does some or all of the alleged conduct, if found to have occurred as alleged, constitute Title IX Sexual Harassment?
- Did the alleged conduct occur within the United States?
- Did the alleged conduct occur in the College's education program or activity?
- Has the College received a Formal Complaint?
- At the time of filing a Formal Complaint signed by the Complainant, was the complainant participating in or attempting to participate in an education program or activity of the College?

If the answer to all of the above questions is yes, the Policy for Title IX Sexual Misconduct and applicable procedures will apply.

However, if the answer to one or more of the above questions is no, the Title IX Coordinator will apply the Procedures for Other Sexual Misconduct (Appendix B), refer the matter to another department for handling under other applicable policies and procedures, or determine that no College policy applies to the alleged misconduct, in which later case no further action beyond the provision of supportive measures will be taken. Reports of retaliation will generally be handled under the Procedures for Other Sexual Misconduct.

The Title IX Coordinator will conduct limited fact-gathering, as necessary, to make this preliminary assessment.

In the event the College already has received a Formal Complaint, but upon assessment, determines that one or more of the other above criteria for Title IX Sexual Harassment is not met, both parties will be notified, simultaneously and in writing, that the Formal Complaint will not proceed under the Procedures for Title IX Sexual Harassment. The written communication will further explain whether the Title IX Coordinator will address the allegations under the Procedures for Other Sexual Misconduct or be referred to another department for handling under other applicable policies and procedures. A decision not to pursue a Formal Complaint under the

Procedures for Title IX Sexual Harassment is subject to appeal in some circumstances, as described in *Appendix A*.

## COMPLAINTS AGAINST CERTAIN ADMINISTRATORS

If the president is the subject of a complaint under this policy, the Title IX Coordinator shall notify the chair of the Board of Trustees, who will serve as the primary point of contact for the investigation process. The investigation shall be conducted by an external Investigator and carried out, to the extent practicable, in accordance with the procedures referenced in this policy. The chair shall notify the Board about the complaint and shall keep the Board informed throughout the investigation process. A written report of the investigation shall be made to the Board which, in consultation with the individual's supervisor, if applicable, shall recommend appropriate corrective and/or disciplinary action.

A confidential report will be made to the Board of Trustees at the conclusion of every investigation of the President or senior staff member conducted under this policy.

## MISUSE OF POLICY

The purpose of this policy is to promote and maintain an environment at MICA that is free from sexual misconduct. Any member of the college community who believes that the member has been subjected to such behavior is encouraged to use the procedures provided in this policy, for the benefit and protection not only of that individual but ultimately of the entire college community. However, fabricated reports of charges of misconduct undermine the purpose and effectiveness of this policy.

Accordingly, persons who knowingly fabricate reports or complaints under this policy may be subject to disciplinary action. Allegations of fabricated complaints must be reported within 90 calendar days of the date of the final written decision. Such allegations should be reported to the Title IX Coordinator, who shall investigate the allegations and refer the individual to the appropriate administrator for disciplinary action, if warranted.

This provision does not apply to reports, complaints, or statements made in good faith, even if the facts alleged are not substantiated by an investigation. No report or complaint will be considered fabricated solely because it cannot be corroborated.

## INFORMATION CONCERNING REGISTERED SEX OFFENDERS

As required by the Campus Sex Crimes Prevention Act, the college community is advised that law enforcement agency information provided by the state of Maryland concerning registered sex offenders may be obtained at the following website: <https://dpscs.maryland.gov/onlineservs/socem/default.shtml>. In addition, the Baltimore Police Department provides MICA's Campus Safety with notice of registered child sex offenders who reside in Baltimore. This information is available for review upon request by all members of the college community.

## EFFECTIVE DATE

The effective date of this policy is August 30, 2021, and it supersedes any and all previous Title IX policies previously in effect in any written or electronic format.

# APPENDIX A

## PROCEDURES FOR TITLE IX SEXUAL HARASSMENT

Procedures for the Resolution of Title IX Sexual Misconduct Allegations (“Title IX Procedures”)

- I. JURISDICTION AND SCOPE
- II. FORMAL COMPLAINTS
- III. RESPONSE TO FORMAL COMPLAINTS
- IV. INFORMAL RESOLUTION OF FORMAL COMPLAINTS
- V. INVESTIGATION OF FORMAL COMPLAINTS
- VI. LIVE HEARINGS
- VII. DETERMINATION REGARDING RESPONSIBILITY
- VIII. SANCTIONS
- IX. APPEALS
- X. IMPOSITION AND ENFORCEMENT OF SANCTIONS AND REMEDIES
- XI. EXCLUSIVITY OF PROCESS

### I. JURISDICTION AND SCOPE<sup>1</sup>

Under the United States Department of Education’s Title IX Regulations, published May 19, 2020 (The Title IX Final Rule), the following procedures will apply only to a narrow category of complaints. Reports of Prohibited Conduct (*as defined in the policy*) meeting the definitions and jurisdictional elements below will follow these Title IX Procedures. Those reports that do not meet the jurisdictional requirements of the new regulations will be handled through The Procedures for Other Sexual Misconduct (also known as the Non-Title IX Procedures); this is not to suggest that any case is more or less important, but instead a reflection of federal regulations that apply only to a specifically identified set of cases. This procedure applies to reports of Prohibited Conduct that meet the following criteria:

#### Nature of Complaint

- A. A complaint of conduct on the basis of sex that falls into one of the following categories:
  - 1. A complaint of Dating Violence, Domestic Violence, Stalking, or Sexual Assault (*as defined in the policy*);

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<sup>1</sup> Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require the elements of this policy, this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Procedures be revoked in this manner, any conduct covered under the Title IX Procedures shall be investigated and adjudicated under the Non-Title IX Procedures.

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies the Complainant equal access<sup>2</sup> to an education program or activity, including employment<sup>3</sup>; or
3. Conduct by an employee conditioning the provision of an aid, benefit, or service of the College on the Complainant's participation in unwelcome sexual conduct.

#### B. Location of Incident

1. The incident(s) occurred on MICAs campus, within the United States;
2. The incident(s) occurred in a building under the College's control, such as a classroom outside of the College's main campus, and within the United States;
3. The incident(s) were part of one of the College's education programs or activities within the United States, including locations, events, or circumstances over which the college exercised substantial control over both the Respondent and the context in which the conduct occurred; or
4. The incident occurred through the use by an individual located in the United States, of computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of, the College's programs and activities over which the college has substantial control.

#### C. Identity of the Complainant

This procedure will apply to Complainants, who at the time of filing a Formal Complaint are participating in or attempting to participate in the education program or activity of the College, regardless of when the incident occurred. This includes, but is not limited to, students (whether applicant, admitted, currently enrolled, or on leave of absence; includes alumni or former students attempting to participate in a College activity) and current employees (applicant, hired but not yet working, or employed).

#### D. Identity of the Respondent

This procedure will apply to Respondents, who at the time of filing a Formal Complaint are participating in or attempting to participate in the education program or activity of the college, regardless when the incident occurred. This includes but is not limited to students (whether applicant, admitted, currently enrolled, or on leave of absence; includes alumni or former students attempting to participate in a college activity) and current employees (applicant, hired but not yet working, or employed).

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<sup>2</sup> Whether the Complainant has been deprived of "equal access" shall be measured by the Title IX Coordinator against the access of a person who has not been subject to the sexual harassment. Signs of enduring unequal access may include skipping class or work to avoid a harasser, having difficulty concentrating in class or on the job, or a decline in grades or performance. However, no concrete injury is required to show unequal access.

<sup>3</sup> The determination whether the alleged conduct meets this standard will be made by the Title IX Coordinator, who will determine whether the alleged conduct was "unwelcome" based on whether the Complainant viewed the conduct as unwelcome, and whether the conduct, as alleged, is "severe, pervasive, and objectively offensive," based on an objective reasonable person standard. The latter evaluation shall be made on a case-by-case basis and will require the Title IX Coordinator to evaluate the facts of each case, including the Complainant's age, disability status, sex, and other characteristics.

## II. FORMAL COMPLAINTS

Formal Complaint: For the purposes of these Title IX Procedures, “Formal Complaint” means a document—including an electronic submission—filed by a Complainant with a signature or other indication that the Complainant is the person filing the Formal Complaint, or signed by the Title IX Coordinator, alleging Prohibited Conduct against a Respondent about conduct within the College’s education program or activity and requesting initiation of the procedures to investigate the allegations. Complainants are only able to file a Formal Complaint under this policy if they meet the conditions of Section I-C. above.

For Complainants who do not meet these criteria, the College will utilize different processes, including the Student Code of Conduct or the Non-Title IX Procedures. Similarly, the college will consider complaints under these procedures only if the Respondent meets the conditions of Section I.-D. above. Complaints against Respondents who do not meet these criteria will be processed under different processes, including the Student Code of Conduct or the Non-Title IX Procedures. To promote timely and effective review, the college strongly encourages Complainants and other persons with knowledge of possible violations of this policy to make reports as soon as possible. A delay in reporting may affect the college’s ability to gather relevant and reliable information, contact witnesses, investigate thoroughly, and respond meaningfully. It may also affect the college’s ability to take disciplinary action against a student or employee who has engaged in Prohibited Conduct.

If the Complainant and/or Respondent is no longer a student or employee at the time of the Formal Complaint and the college is, thus, unable to pursue resolution under these procedures, the college will seek to meet its Title IX obligations by providing support for the parties and, as feasible, taking appropriate steps to end any Prohibited Conduct, prevent its recurrence, and address its effects. If the report falls within the jurisdiction of these procedures the Investigator will take the following actions:

### A. Response Where the Complainant’s Identity Is Known

Where the identity of the Complainant is known, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint. (*See, Supportive Measures in Appendix C*) The Title IX Coordinator will also offer the Complainant supportive measures designed to restore or preserve equal access to the college’s education programs or activities and will consider the Complainant’s wishes with respect to these measures.

### B. Response Where the Complainant’s Identity Is Unknown

Where a report is filed but the identity of the Complainant is unknown, the Title IX Coordinator will assess the nature and circumstances of the report, including whether it provides information that identifies the potential Complainant, the potential Respondent, any witnesses, and/or any other third party with knowledge

of the reported incident, and take reasonable and appropriate steps to respond to the report of Prohibited Conduct consistent with applicable federal and state laws and these procedures.

#### C. Response Where the Respondent's Identity Is Unknown

Where a report is filed but the identity of the Respondent is unknown, the Title IX Coordinator will assess the nature and circumstances of the report, including whether it provides information that identifies the potential Respondent, any witnesses, and/or any other third party with knowledge of the reported incident, and take reasonable and appropriate steps to respond to the report of Prohibited Conduct consistent with applicable federal and state laws and these procedures.

### III. Response to Formal Complaints

#### A. Notice of Allegations

Following receipt of a Formal Complaint, the Title IX Coordinator will simultaneously provide written notice to each known party (Complainant(s) and Respondent(s)) that will include the following:

1. Notice of these Title IX Procedures, including the informal resolution process and a range of possible sanctions associated with the allegations.
2. Notice of the allegations of Title IX Sexual Harassment, including: the identities of the parties involved in the incident, if known; the conduct alleged to constitute Title IX Sexual Harassment; the date, time, and location of the alleged incident(s), if known;
3. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of any investigation and adjudication process;
4. Information regarding the parties' right to a supporter of choice (including an attorney or advocate) and a hearing advisor in the event of a live hearing; and
5. A statement describing applicable prohibitions against knowingly making false statements or submitting false information during any investigation, adjudication, or informal resolution process.

The Title IX Coordinator or a designee reserves the right to amend or supplement the Notice of Allegations at any time. If, during the course of an investigation, the Title IX Coordinator decides that new or additional allegations that were not included in the most current Notice of Allegations should be investigated, they will provide an updated Notice of Allegations to all known parties.

The Title IX Coordinator or a designee also will provide the Complainant and Respondent, respectively, a written explanation of their rights, options, and responsibilities under these Procedures, including the availability of interim supportive measures and support resources, information regarding other civil and criminal options, and legal services organizations and referral services available to the party.

#### B. Discretionary Dismissal

The Title IX Coordinator has discretion to dismiss a Formal Complaint of Title IX Sexual Harassment or any allegations within such a Formal Complaint in the following three situations:

1. The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations within it;
2. The Respondent is no longer enrolled at the college or is no longer employed by the college; or
3. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If any of these circumstances is present, the Title IX Coordinator will make fact-specific determination whether to dismiss the Formal Complaint, considering all relevant circumstances, including the safety and security of the College community. In the event of a discretionary dismissal, both parties will be notified simultaneously and in writing of the dismissal and reasons, therefore. Both parties have the right to appeal the dismissal of a Formal Complaint.

C. Mandatory Dismissal

Even if a preliminary determination is made that alleged misconduct in a Formal Complaint triggers the Procedures for Title IX Sexual Harassment, as described in *Section II of the Sexual Misconduct Policy*, throughout the investigation and adjudication process it may become apparent that some or all of the alleged misconduct does not meet the requirements of Title IX Sexual Harassment. In that case, the College must dismiss the Formal Complaint (or the allegations within the Formal Complaint that do not meet the Title IX Sexual Harassment requirements), but it retains the discretion to address the alleged misconduct as Other Sexual Misconduct under the Sexual Misconduct Policy or under other policies, including the *Student Conduct Code*.

## IV. Informal Resolution of Formal Complaint

At any time prior to reaching a determination regarding a Formal Complaint of Title IX Sexual Harassment, the Title IX Coordinator or designee may facilitate an informal resolution process (such as mediation) that does not involve a full investigation and adjudication, if the following circumstances are met:

- A. The parties each receive a written notice disclosing the allegations and the requirements of the informal resolution process;
- B. The parties each provide voluntary, written consent to participating in the informal resolution process and the Title IX Coordinator consents; and
- C. The Formal Complaint does *not* allege that a College employee engaged in Title IX Sexual Harassment of a student or that the respondent engaged in sexual assault or sexual coercion, in accordance with MD Education 11-601.

If the parties agree to engage in the informal resolution process, either party may withdraw from that process at any time prior to agreeing to a resolution of the Formal Complaint. If either party

decides to withdraw, the investigation and adjudication process for the Formal Complaint will resume.

If, through the informal resolution process, the parties agree to a resolution of the Formal Complaint, the party's agreement will be confirmed in writing, the Formal Complaint will be closed upon satisfaction by Respondent of all terms agreed to as part of the informal resolution process, and the parties may no longer resume the investigation and adjudication process on the same allegations. However, an Informal Resolution does not prevent either party from reporting new allegations that were not part of a Formal Complaint that was informally resolved.

## V. Investigation of Formal Complaint

### A. Consolidation of Formal Complaints

The Title IX Coordinator or designee may consolidate Formal Complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

### B. Fact Gathering

During the first phase of its investigation, the College will gather facts related to the allegations of Title IX Sexual Harassment. The Title IX Coordinator will designate one or more trained internal or external investigators<sup>4</sup> to interview the Complainant, Respondent, and witnesses. The Title IX Coordinator will not serve as an investigator. Investigators will gather pertinent documents and other evidence identified by either party or that comes to their attention.

The burden of proof and of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not on the parties.

Parties have the right to submit evidence (both inculpatory and exculpatory<sup>5</sup>), present witnesses (including fact and expert witnesses), and/or suggest specific questions to be posed to the other party during the investigation.

### C. Investigative Protocols

The investigators will follow the protocols set forth below:

1. **Preservation of Evidence:** The investigators will request that the Complainant, Respondent, witnesses, and other interested individuals preserve any relevant evidence, including documents, text messages, voice messages, e-mails, and postings on social media.
2. **Romantic or Sexual History:**

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<sup>4</sup> See x for factors considered in making this determination

<sup>5</sup> Inculpatory evidence is evidence supporting the Complainant's allegations and the Respondent's responsibility for violating the Policy. Conversely, exculpatory evidence tends to show the Complainant's allegations are not accurate and that the Respondent is not responsible for violating the Policy.

- a. The investigators will not solicit or consider information about the Complainant's sexual predisposition or prior sexual behavior, unless such information is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the information concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and is offered to prove consent.
  - b. Investigators will not solicit or consider information concerning the romantic or sexual history of the Respondent other than:
    - i. information concerning the parties' shared romantic or sexual history that is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant;
    - ii. information concerning specific incidents of the Respondent's prior sexual behavior with respect to the Complainant that is offered to prove consent; or
    - iii. information concerning the Respondent's prior sexual history with someone other than the Complainant if deemed relevant to prove the source of injury or prior sexual misconduct, to show that an individual has an ulterior motive, or to impeach the Respondent's credibility after the Respondent has put their own prior sexual conduct at issue.
3. **Prior Conduct Violations:** The investigators will generally not consider evidence of any prior incident, but the investigators have discretion to consider evidence of any prior incident(s) that involved conduct substantially similar to the allegation(s) being investigated or demonstrates a common pattern of behavior.
  4. **Mental Health Conditions:** The investigators will not solicit or consider information concerning a party's mental health history, including any mental health diagnosis, counseling, or treatment, unless the party consents to the use of such information.
  5. **Medical Records:** The investigators cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the College obtains that party's voluntary, written consent to do so.
  6. **Law Enforcement Investigations:** If the College's investigation is delayed during the evidence-gathering stage of a concurrent law enforcement investigation, the College's investigation will resume promptly thereafter.

#### D. Party Review of Evidence File

After the fact-gathering process is complete, both parties will have an equal opportunity to review the evidence file, which includes any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. This includes

evidence upon which the Investigator does not intend to rely in reaching a recommendation regarding responsibility as well as inculpatory and exculpatory evidence obtained from a party or other source.

Prior to the completion of the Investigative Report, the Title IX Coordinator will provide each party and their supporter(s) (if applicable) with electronic access to review and inspect the above-referenced evidence file. The parties will have 10 calendar days to submit a written response to the Title IX Coordinator, if they choose. If either or both parties submit a response to the evidence file, the assigned investigator(s) will consider the response(s) prior to completing the Investigative Report.

Any response to the evidence file submitted by a party will be made available to the other party and their supporter(s) and will become part of the evidence file unless the response is not directly related to the allegations raised in the Formal Complaint.

The evidence file will be made available to the parties and the members of the decision-making panel for reference during a hearing, including for purposes of cross-examination.

#### E. Investigative Report

Upon completion of the fact-gathering process and with consideration of any response to the evidence file review, the investigator(s) will consider all relevant evidence and prepare a report that fairly summarizes relevant evidence.

At least 10 days prior to the hearing, the Complainant and Respondent will be notified in writing of their right to review the investigative report and submit written comments to the determination panel. If either party chooses to submit written comments to the determination panel, these comments will be provided in full to the other party along with the final investigative report.

When the investigative report is submitted to the parties, the names and identifying information of other students/individuals will be redacted to the extent required by FERPA and to protect other privileged and confidential information. Once the Title IX Coordinator or investigator determines that an investigation is complete, the Title IX Coordinator or investigator will transmit the investigative report and the evidence file to the appropriate determination panel.

## VI. Hearings

As applicable to circumstances that meet the criteria to be resolved under the Title IX Sexual Misconduct Policy, and applicable procedures, unless a Formal Complaint is dismissed or resolved via the informal resolution process, the College will provide for a live hearing presided over by a trained decision maker. Allegations of non-Title IX sexual misconduct will be resolved under the applicable policies and corresponding procedures, including the Other Sexual Misconduct Policy and may not include a panel, but will instead be resolved as denoted in the controlling policy and procedure.

A. In-person, Virtual, Separate Rooms:

1. Live hearings may be conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses and other participants may appear at the live hearing virtually, with technology enabling participants to simultaneously see and hear each other.
2. Upon the request of either party, the College will conduct the live hearing with the parties located in separate rooms with technology enabling the members of the determination panel and parties to simultaneously see and hear the party or witness answering questions.

B. Hearing Advisor:

All parties must have a Hearing Advisor present at the live hearing.

1. The Hearing Advisor may be, but is not required to be, an attorney.
2. The Hearing Advisor may be, but is not required to be, an individual whom a party has selected as a personal or legal/advocate supporter.
  - a. Only one Hearing Advisor for each party may be present during the live hearing.
  - b. If a party does not have a Hearing Advisor present at the live hearing, the College will provide a Hearing Advisor to the party without fee or charge to conduct cross-examination on behalf of the party during the live hearing.

C. Relevant Cross Examination:

1. The determination panel will permit each party's Hearing Advisor of choice to ask the other party and any witnesses all relevant questions and follow-up questions, including those which challenge credibility.
2. Only questions determined by the determination panel to be relevant may be asked.
3. Before a party or witness answers a cross-examination or other question, the determination panel must first determine whether the question is relevant. If the determination panel excludes a question as not relevant, the panel will explain this decision.
4. Such cross-examination at the live hearing must be conducted directly, orally and in real time by the party's Hearing Advisor of choice.
5. Parties are not permitted to directly question the other party(ies) or witnesses at the hearing. All questioning must be via the Hearing Advisor.

D. Questions about Sexual Predisposition or Prior Sexual Behavior:

1. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about either party'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.
2. Questions and evidence about the Respondent's romantic or sexual history will not be relevant, other than
  - a. questions and evidence concerning the parties' shared romantic or sexual history that are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant;

- b. questions and evidence concerning specific incidents of the Respondent's prior sexual behavior with respect to the Complainant that are offered to prove consent; or
- c. questions and evidence concerning the Respondent's prior sexual history with someone other than the Complainant if deemed relevant to prove the source of injury or prior sexual misconduct, to show that an individual has an ulterior motive, or to impeach the Respondent's credibility after the Respondent has put their own prior sexual conduct at issue.

E. Questions about Prior Conduct Violation: Questions and evidence about any prior incident are generally not relevant, but the determination panel has discretion to consider evidence of any prior incident(s) that involved conduct substantially similar to the allegation(s) under investigation or demonstrates a common pattern of behavior.

F. Questions about Mental Health Conditions: The determination panel will not solicit, consider or permit questions about or introduction of information concerning a party's mental health history, including any mental health diagnosis, counseling, or treatment, unless the party consents to the use of such information.

G. Medical Records: The determination panel will not access, consider, disclose, permit questions about or introduction of information concerning a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the College obtains that party's voluntary, written consent to do so.

H. Recording: The College will create an audio or audiovisual recording, or transcript, of any live hearing, and will make it available to the parties for inspection and review.

I. Continuances or Granting Extensions: The Hearing Chair may determine that multiple sessions or a continuance (i.e., a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, the Hearing Chair will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

## VII. Determination Regarding Responsibility

The determination panel will issue a written determination regarding responsibility applying the preponderance of the evidence standard and the determination shall be reached by a simple majority vote. The written determination will be issued simultaneously to both parties and will include:

- A. Identification of the allegations of Title IX Sexual Harassment;
- B. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;

- C. Findings of fact supporting the determination;
- D. Conclusions regarding the application of the Sexual Misconduct Policy to the facts;
- E. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether the College will provide to the Complainant remedies designed to restore or preserve equal access to its education programs and/or activities; and
- F. Information about procedures and permissible bases for the Complainant and Respondent to appeal.

Remedies provided to the Complainant need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

## VIII. Sanctions

Once the Determination Panel determines a Respondent is responsible for engaging in Title IX Sexual Harassment, they will forward the written determination to the Title IX Coordinator. The Title IX Coordinator will forward the findings to the appropriate decision maker to recommend appropriate sanctions. Sanctions for student Respondents will be decided by the Student Conduct Office, for staff Respondents by Human Resources, and for faculty Respondents by the Provost's office. Sanctions will be assigned with consideration given to the following factors:

- The specific misconduct at issue;
- The circumstances accompanying any lack of consent (e.g., force, threat, coercion, intentional incapacitation, etc.);
- The Respondent's state of mind (bias-motivated, reckless, negligent, etc.);
- The Respondent's prior disciplinary history;
- The safety of the College community;
- Impact or mitigation statement by one or both parties;
- The Respondent's conduct during the investigation and resolution process; and
- Such other factors as the resolution panel deems appropriate.

Sanctions imposed will be fair and appropriate, consistent with the College's handling of similar cases, adequate to protect the safety of the campus community, and reflective of the seriousness of the misconduct at issue. One or more of the following sanctions may be imposed on a Respondent found responsible for sexual misconduct, or other such appropriate sanction as the circumstances may dictate:

- *Reprimand/warning;*
- *Changing the Respondent's academic or employment schedule;*
- *Disciplinary probation;*
- *Revocation of honors or awards;*
- *Loss of privileges;*
- *Imposition of conditions of employment;*
- *Restricting access to College facilities or activities, including student activities and campus organizations;*
- *Mandatory training;*
- *Service hours;*

- *Alcohol and/or drug assessment or counseling;*
- *Issuing a “no contact” order to the Respondent or requiring that an existing order remain in place;*
- *Moving the Respondent’s residence on campus;*
- *Dismissal, termination or restriction from College employment;*
- *Making a former College employee or student (including those expelled or terminated pursuant to these sanctions) ineligible for hire or rehire by the College;*
- *Removal from student housing;*
- *Demotion or other removal from a management, supervisory or leadership role(s);*
- *A full or partial ban from campus (either limited time or indefinite);*
- *Transcript notations;*
- *Deferred suspension;*
- *Restriction from College sponsored or affiliated events;*
- *Pay reduction;*
- *Loss of raise;*
- *Loss of supervision or oversight duties;*
- *Referral for further sanctioning pursuant to applicable policies and/or procedures;*
- *Employment record notations, including an ineligibility for rehire notation;*
- *Suspension;*
- *Expulsion; and*
- *Revocation of degree.*

The appropriate decision maker must inform the Title IX Coordinator promptly of the decision and any sanctions. They may recommend, and the Title IX Coordinator may implement, additional measures to remedy the effects of the sexual misconduct on the Complainant, designed to restore or preserve equal access to the College’s education program or activity. Such remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. These include but are not limited to: providing an escort for passage between classes and activities; ensuring the Complainant and Respondent do not share classes or extracurricular activities; moving the Respondent or Complainant (if the Complainant requests to be moved) to a different residence hall; providing victim focused services including medical, counseling and academic support services, such as tutoring; and arranging for the Complainant to have extra time to complete or retake a class or withdraw from a class without an academic or financial penalty.

The appropriate decision maker may also recommend, and the Title IX Coordinator may implement, additional measures that are designed to prevent the recurrence of sexual misconduct or respond to the effects of the sexual misconduct on the College community that may include, but are not limited to: increased monitoring, supervision, or security at locations or activities where the sexual misconduct occurred; additional training and/or educational materials for students or groups; revision of the Sexual Misconduct Policy; and campus climate surveys.

## IX. Appeals

Both parties have the right to appeal the determination panel’s determination regarding responsibility and the dismissal of a Formal Complaint or any allegations therein on the following bases:

- A procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator or determination panel (or member thereof) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

A party has seven (7) calendar days from receipt of the determination or dismissal notification to appeal. Any appeal must be filed in writing with the determination panel who issued the decision under appeal. The determination panel will then promptly forward the written appeal to the appropriate Appeal Officer.

The Appeal Officer or designee will notify both parties in writing that the appeal has been received and is under consideration. After receiving this notification, both parties have seven (7) calendar days to submit a written statement in support of, or opposing, the outcome under appeal.

The Appeal Officer:

- Will be formally trained, as required by law;
- Will implement appeal procedures equally for both parties;
- Will have access to the evidence file, the investigative report, the recording or transcript of the hearing, the written determination of the determination panel, and appellate submissions of the parties;
- Will not have a conflict of interest or bias against Complainants or Respondents generally or individually as to the specific matter; and
- Will not be the same person as the Title IX Coordinator, the investigator(s), or the determination panel that reached the determination regarding responsibility or dismissal.

The appeal process does not involve another hearing or any meetings with the Complainant, Respondent, supporters or Hearing Advisors. The Appeal Officer will provide written notice of their decision within 20 calendar days of receipt of written statements in support of, or opposition to the appeal.

If the Appeal Officer concludes that a change in the determination of responsibility or sanctioning determination is warranted, they may (1) enter a revised written determination; (2) remand the matter to the determination panel to reconsider a determination or sanction; or (3) remand the matter for further investigation by the investigator(s).

The Appeal Officer will simultaneously send the written appeal determination, including a description of the result of the appeal and the rationale for the result, to the Complainant and Respondent, with a copy to the Title IX Coordinator.

No further appeals are permitted.

## X. Imposition and Enforcement of Sanctions and Remedies

The Title IX Coordinator will be responsible for ensuring that any sanctions imposed are implemented and completed. This may require contacting college employees in a position to enforce or monitor sanctions, such as the Director of Residential Life, or an employment supervisor. In contacting such persons, the Title IX Coordinator will only disclose as much information as is necessary to ensure that the sanctions are enforced or monitored. The Title IX Coordinator will be responsible for implementing any remedies deemed necessary and will take into consideration the Impact/Mitigation Statements submitted by the parties in doing so. Remedies may include the extension of supportive measures previously put in place and shall be designed to provide equal access to the Complainant to the college's programs and activities. A decision to impose remedies is not appealable by either party. The Respondent shall be notified of the implementation of any remedies that affects the Respondent. The implementation of remedies is not subject to appeal and is final

## XI. Exclusivity of Process

These Procedures for Title IX Sexual Harassment are the exclusive procedures for investigation and adjudication of Title IX Sexual Harassment involving all members of the College community, including students, faculty, and staff. If the determination panel makes a finding of Title IX Sexual Harassment and issues a sanction of referral for further sanctioning pursuant to applicable policies and/or procedures, such applicable policies and/or procedures shall apply to such further sanctioning and any appeal of such further sanctioning. To the extent other applicable policies and/or procedures conflict with or are inconsistent with the Sexual Misconduct Policy and Procedures, the Sexual Misconduct Policy and Procedures shall take precedence.

## APPENDIX B

### PROCEDURES FOR OTHER SEXUAL MISCONDUCT<sup>6</sup>

#### Assessment and Notice

Per the Sexual Misconduct Policy, once the Title IX Coordinator has determined that the allegations at issue do not involve Title IX Sexual Harassment, the determination as to whether to initiate an investigation will consider whether the alleged conduct violates the prohibitions against Other Sexual Misconduct or retaliation, as well as any requests by the Complainant for the matter not to be investigated or for confidentiality, as discussed above in the Policy.

If the Title IX Coordinator decides not to investigate or to conduct a limited inquiry prior to the commencement of any disciplinary proceedings, the Title IX Coordinator will memorialize that decision in a written statement of reasons and will notify the Complainant of that determination.

If the Title IX Coordinator decides to open an investigation, the Title IX Coordinator or designee will promptly notify the Complainant and Respondent simultaneously in writing of the alleged violation(s) that MICA plans to investigate, including the date, time, and location of the alleged violation(s) and the range of potential sanctions associated with the alleged violation(s). The Title IX Coordinator or designee reserves the right to amend or supplement that notice at any time and will provide the Complainant and Respondent with notice of any such changes in the scope of the investigation.

The Title IX Coordinator or designee will also provide the Complainant and Respondent, respectively, with a written explanation of their rights, options, and responsibilities under the *Sexual Misconduct Policy* and these Procedures, including the availability of interim supportive measures and support services, information regarding other civil and criminal options, the party's right to the assistance of a supporter (including an attorney or advocate, as discussed below), and the legal service organizations and referral services available to the party.

Additionally, the Title IX Coordinator or designee will ensure that both the Complainant and Respondent are updated appropriately and equivalently throughout the investigative process,

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<sup>6</sup> Matters reported on or after August 14, 2020, will be handled under this Policy and these Procedures where the allegations of sexual misconduct allegedly occurred on or after August 14, 2020. For any matters reported prior to August 14, 2020, or which concern allegations of sexual misconduct that allegedly occurred prior to August 14, 2020, MICA will apply the policy and procedures that were in effect until August 14, 2020. Allegations of Sexual Harassment that occurred prior to August 14, 2020, will be handled under the policy and procedures that were in effect until August 14, 2020.

The Procedures for Other Sexual Misconduct will be utilized for applicable matters reported on or after August 14, 2020, where the allegations of Other Sexual Misconduct allegedly occurred on or after August 14, 2020. For any matters reported to August 14, 2020, or which concern allegations of Other Sexual Misconduct that allegedly occurred prior to August 14, 2020, MICA will apply the policy and procedures that were in effect until August 14, 2020.

including providing timely notices of scheduled meetings, hearings, and interviews in which they are required or permitted to attend. The Complainant and/or Respondent may, however, decline to participate in the investigation or resolution process. MICA may continue the process without the Complainant's and/or Respondent's participation.

If the facts surrounding a report of Other Sexual Misconduct also involve other alleged violations of MICA policy, including, but not limited to, student conduct, the Title IX Coordinator or designee may also investigate such other alleged violations or refer them to the appropriate authority, such as Student Conduct or People, Belonging, and Culture.

## Informal Resolution

If the Complainant and Respondent agree, certain cases may be resolved informally. Cases involving allegations of sexual assault or sexual coercion or that an employee sexually harassed a student are not suitable for informal resolution. Informal resolution may also be unavailable if the Title IX Coordinator determines that it is inappropriate based on the facts and circumstances of the particular case. All informal resolutions will be conducted or overseen by the Title IX Coordinator or a trained designee, and under no circumstances will a Complainant be directed to resolve a matter directly with the Respondent.

Either the Complainant or the Respondent may withdraw their agreement to proceed informally at any time prior to a resolution agreement being reached and finalized. If both parties are satisfied with a proposed informal resolution and the Title IX Coordinator considers the resolution to satisfy MICA's obligation to provide a safe and non-discriminatory environment, the resolution will be implemented, and the informal resolution process will be concluded. If informal resolution efforts are unsuccessful, the resolution process will continue.

If a matter is resolved through informal resolution, the parties will receive a written notice of the outcome documenting the terms of the informal resolution.

## Investigation

### **Fact-Gathering Process**

The first phase of the investigation will include gathering facts related to the allegations of sexual misconduct. The Title IX Coordinator will designate one or more trained investigators to interview the Complainant, Respondent, and witnesses. The Title IX Coordinator may serve as an investigator. Investigators will also gather pertinent documents and other evidence identified by either party or that comes to their attention.

Parties have the right to submit evidence, suggest witnesses and/or suggest specific questions to be posed to the other party during the investigation.

### **Protocols**

The investigators will follow the protocols set forth below:

**Preservation of Evidence:** The investigators will request that the Complainant, Respondent, witnesses, and other interested individuals preserve any relevant evidence, including documents, text messages, voice messages, e-mails, and postings on social media.

**Romantic or Sexual History:** The investigators will not solicit or consider information concerning the romantic or sexual history of either party other than 1) information concerning the parties' shared romantic or sexual history that the investigators deem relevant, or 2) information concerning a party's prior sexual history with someone other than the other party if deemed relevant to prove the source of injury or prior sexual misconduct, to show that an individual has an ulterior motive, or to impeach an individual's credibility after this individual has put their own prior sexual conduct at issue. The existence of a prior consensual romantic or sexual relationship between the Complainant and Respondent is not proof of consent to alleged sexual activity.

**Prior Conduct Violations:** The investigators will generally not consider evidence of any prior incident, but the investigators have discretion to consider evidence of any prior incident(s) that involved conduct substantially similar to the allegation(s) being investigated or demonstrates a common pattern of behavior.

**Mental Health Conditions:** The investigators will not solicit or consider information concerning a party's history of mental health counseling, treatment, or diagnosis, unless the party consents to the use of such information.

**Law Enforcement Investigations:** If the investigation is delayed during the evidence-gathering stage of a concurrent law enforcement investigation, the investigation will resume promptly thereafter.

At any time prior to or during an investigation, the Respondent may accept responsibility for some or all of the alleged violations. If the Respondent accepts responsibility for all of the alleged violations, the matter will then proceed to the applicable sanctioning phase and any available appeal of the sanctioning decision. If the Respondent only accepts responsibility for some of the alleged violations, the investigation shall continue with respect to all remaining disputed allegations, if determined to be appropriate by the investigator and Title IX Coordinator.

If the Respondent accepts responsibility for some of the alleged violations, but not all, the other allegation will continue to be investigated. The Title IX Coordinator will determine whether the sanctioning phase for the accepted allegations will proceed at the time of acceptance or await the resolution of the entire investigation, including the disputed allegations.

## **Investigation Report**

Upon completion of the fact-gathering process, the investigator(s) will consider all relevant evidence and prepare a report. The report will include the findings of fact and an assessment of credibility of the information provided.

The Complainant and Respondent will be notified in writing of their right to review the investigative report and submit written comments to the Title IX Coordinator within seven (7) calendar days of the date of notification. If either party chooses to submit written comments to the

Title IX Coordinator, these comments will be provided in full to the other party as well as the applicable decision-making authority along with the final investigation report.

When the investigation report is submitted to the parties, the names and identifying information of other students/individuals will be redacted to the extent required by FERPA and to protect other privileged and confidential information. Once the Title IX Coordinator or investigator determines that an investigation is complete, the Title IX Coordinator or investigator will transmit the investigation report and any comments regarding the same, to the appropriate entity or administrator for determination of findings pursuant to applicable procedures.

## Resolution Procedures for All Investigations of "Other Sexual Misconduct"

### *Student Respondents:*

Resolution, sanctions and appeals of complaints of Other Sexual Misconduct in which the Respondent is a student will be governed by the procedures below.

### *Staff Respondents:*

Resolution, sanctions and appeals of complaints of Other Sexual Misconduct in which the Respondent is a staff member will be governed by the procedures in MICA's personnel policies, except as provided herein. The appropriate decision-maker/administrator/panel/board will use the preponderance of the evidence standard to determine Respondent's responsibility for alleged Policy violations.

### *Faculty Respondents:*

Resolution, sanctions and appeals of complaints of Other Sexual Misconduct in which the Respondent is a member of the faculty will be processed by the Vice Provost or Dean of the appropriate department according to the disciplinary procedures established by that department, except as provided herein. The appropriate decision-maker/administrator/panel/board will use the preponderance of the evidence standard to determine Respondent's responsibility for alleged Policy violations.

Notwithstanding the normal procedures in departmental policies, the following provisions apply for: (1) complaints of Other Sexual Misconduct that include allegations of sexual assault, relationship violence, and stalking regardless of whether the Complainant or Respondent is a student, faculty or staff member; and (2) for complaints of non-Title IX sexual harassment where the Complainant or Respondent is a student:

**Equal Rights:** All procedural rights will be afforded equally to Respondents and Complainants.

**Testimony:** If the applicable procedures allow one party to be present for the entirety of a hearing, both parties shall be provided this right equally. When requested, arrangements shall be made so that the Complainant and the Respondent are not present in the same room at the same time. Both parties will be permitted to offer testimony at a hearing or, if the procedures do not include a hearing, to the adjudicating official.

**Review of Information:** The Complainant and Respondent will each have equal and timely access to any information that will be used during disciplinary meetings and hearings, consistent with FERPA and to protect other confidential and privileged information.

**Questioning:** If the applicable procedures include a hearing, only the determination panel may ask questions of the parties and any witnesses. Both parties may propose questions of the other party and witnesses by submitting questions to the panel in writing at any time during the proceeding. The resolution panel is encouraged to include all relevant questions, but may, in its discretion, ask, alter or omit any or all submitted questions.

**Romantic/Sexual History:** In general, the resolution panel will not consider evidence concerning the romantic or sexual history of either party, except for evidence of 1) the parties' shared romantic or sexual history that the resolution panel deems relevant, or 2) information concerning a party's prior sexual history with someone other than the other party if deemed relevant to prove the source of injury or prior sexual misconduct, to show that an individual has an ulterior motive, or to impeach an individual's credibility after this individual has put his or her own prior sexual conduct at issue. If such evidence is offered by the Complainant or Respondent, the other may respond to it. The existence of a prior consensual romantic or sexual relationship between the Complainant and Respondent is not proof of alleged sexual misconduct.

**Mental Health Conditions:** The resolution panel will not solicit, consider or permit introduction of information concerning a party's history of mental health counseling, treatment, or diagnosis, unless the party consents to the use of such information. The resolution panel will determine whether a party effectively consented to consideration of their own mental health conditions by placing any such conditions at issue of their own accord to support their allegations or defense.

**Students on Panel:** If the applicable procedures normally include the participation of one or more students on a resolution panel, those students will be replaced by administrative staff or faculty.

## Additional Resolution Procedures for Investigations of "Other Sexual Misconduct" Involving *Student Respondents (unless otherwise noted)*

The following procedures apply to the resolution of Other Sexual Misconduct investigations in which the Respondent is a student (*except* where broader application is explicitly noted).

### Resolution Panel

If a matter involving a student Respondent is not resolved by informal resolution or a Respondent's acceptance of responsibility, the Title IX Coordinator or a designee will convene a resolution panel at the conclusion of an investigation to determine whether the Respondent is or is not responsible for violation(s) of the Policy. If the facts surrounding a report of Other Sexual Misconduct also involve other alleged violation(s) of MICA policy, including but not limited to student conduct, the resolution panel may also hear such other alleged violations.

Each resolution panel will have three members drawn from a trained pool of MICA faculty and administrators, or other qualified professionals selected by the Title IX Coordinator or a designee.

The Complainant and Respondent will be informed of the resolution panel's membership before the hearing and shall have the opportunity to object to the participation of any member based on a conflict of interest. All resolution panel members and employees involved in the resolution process shall have received, at a minimum, annual training on issues related to sexual misconduct and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

## **Determination of Responsibility**

Upon review of the investigation report and any comments submitted by the parties and Title IX Coordinator, the resolution panel may (1) determine that the case can be decided without hearing from witnesses or receiving further evidence, (2) remand the case for further investigation or clarification of the investigation report, or (3) convene a hearing. If the resolution panel determines that a case can be decided without hearing from witnesses or receiving further evidence, both the Complainant and Respondent will nonetheless be able to make a statement to the resolution panel in person or in writing if they so choose.

In the event that the resolution panel decides to convene a hearing or that either party (or both) elect to make an in-person statement to the resolution panel, this will be a closed proceeding, meaning that no one other than the resolution panel members, supporters, and necessary MICA personnel may be present. If a hearing is convened, the Complainant and Respondent, their respective supporter(s), and witnesses called to the hearing will be present in the hearing room only when making a statement or being questioned by the resolution panel. The Complainant and Respondent will be given the opportunity to view or hear the evidence stage of the hearing from separate rooms via video or audio streaming. The deliberations of the resolution panel will be closed and private.

In general, hearings will proceed as follows, although the resolution panel has discretion to alter the order or manner in which it hears or receives evidence:

- Opening statement by the Complainant
- Opening statement by the Respondent
- Questioning of the Complainant by the panel
- Questioning of the Respondent by the panel
- Questioning of witnesses by the panel
- Questioning of the investigators by the panel
- Closing statement by the Complainant
- Closing statement by the Respondent

The resolution panel may set reasonable time limits for any part of the hearing. The resolution panel may also determine the relevance of, place restrictions on, or exclude any witnesses or information. Formal rules of evidence do not apply.

Additional hearing rules include:

**Prior Conduct Violations:** The resolution panel will generally not consider evidence of any prior incident, but the resolution panel has discretion to consider evidence of any prior incident(s) that

involved conduct substantially similar to the allegation(s) being investigated or demonstrates a common pattern of behavior.

**Audio or Video Recording:** The College will make an audio and/or video recording of the hearing for the use of the resolution panel, for sanctioning, and for purposes of appeal. The resolution panelists, the Title IX Coordinator, and/or the Vice President of Student Affairs and Dean of Students may request a transcript and recording of the hearing. The parties may not record any part of the investigation or hearing.

The resolution panel in student Respondent cases will use the preponderance of the evidence standard to determine Respondent's responsibility for alleged Policy violations.

Determinations of responsibility by the resolution panel are made by majority vote; determinations as to the appropriate sanction are also made by majority vote, except where the sanction in question is expulsion or a revocation of a degree, for which unanimity is required.

If the resolution panel finds the Respondent not responsible, it will simultaneously send its determination, with the reasons for its decision, to the Complainant and Respondent, with a copy to the Title IX Coordinator. If the resolution panel finds the Respondent responsible, it will proceed to the sanctioning phase, described below.

Whatever the outcome of the resolution process, either party may request ongoing or additional accommodations, and the Title IX Coordinator will determine whether such accommodations are appropriate. Potential ongoing accommodations include but are not limited to: (1) providing a security escort; (2) assistance with moving residences; (3) changing academic schedules; adjusting work schedules; (5) allowing withdrawal from or re-taking a class without penalty; (6) providing access to tutoring or other academic support, such as extra time to complete or re-take an examination; and (7) directing that the parties have no contact with one another.

## **Sanctioning**

This section "Sanctioning" applies to all cases involving Other Sexual Misconduct, irrespective of whether the Complainant or Respondent is a student or faculty or staff member.

The resolution panel, in consultation with the Title IX Coordinator, is responsible for sanctioning student Respondents found responsible for violating the Policy. Student Affairs personnel will coordinate with the resolution panel to ensure that the resolution panel has access to and assesses all relevant information.

The resolution panel in student Respondent cases (or appropriate administrator/panel/board in faculty/staff Respondent cases) may consider the following factors in the sanctioning process:

The specific misconduct at issue;

The circumstances accompanying any lack of consent (e.g., force, threat, coercion, intentional incapacitation, etc.);

The Respondent's state of mind (bias-motivated, reckless, negligent, etc.);

The Respondent's prior disciplinary history;

The safety of the University community;  
Impact or mitigation statement by one or both parties;  
The Respondent's conduct during the investigation and resolution process; and  
Such other factors as the resolution panel deems appropriate.

In appropriate cases, e.g., where the administrator/panel/board finds that the Respondent poses a threat to the Complainant or to campus safety, the administrator/panel/board, in consultation with the Title IX Coordinator, may impose interim sanctions before issuing a decision.

The administrator/panel/board will impose sanctions that are fair and appropriate, consistent with MICA's handling of similar cases, adequate to protect the safety of the campus community, and reflective of the seriousness of the misconduct at issue. The administrator/panel/board may impose any one or more of the following sanctions on a Respondent found responsible for Other Sexual Misconduct, or other such appropriate sanction as the circumstances may dictate:

Reprimand/warning;  
Changing the Respondent's academic or employment schedule;  
Disciplinary probation;  
Revocation of honors or awards;  
Loss of privileges;  
Imposition of conditions of employment;  
Restricting access to MICA facilities or activities, including student activities and campus organizations;  
Mandatory training;  
Service hours;  
Alcohol and/or drug assessment or counseling;  
Issuing a "no contact" order to the Respondent or requiring that an existing order remain in place;  
Moving the Respondent's residence on campus;  
Dismissal, termination or restriction from employment;  
Making a former employee or student (including those expelled or terminated pursuant to these sanctions) ineligible for hire or rehire by MICA;  
Removal from student housing;  
Demotion or other removal from a management, supervisory or leadership role(s);  
A full or partial ban from campus (either limited time or indefinite);  
Transcript notations;  
Deferred suspension;  
Restriction from MICA sponsored or affiliated events;  
Pay reduction;  
Loss of raise;  
Loss of supervision or oversight duties;  
Referral for further sanctioning pursuant to applicable policies and/or procedures;  
Employment record notations, including an ineligibility for rehire notation;  
Suspension;  
Expulsion; and  
Revocation of degree.

The administrator/panel/board will simultaneously send its determination of responsibility and sanction(s), with the reasons, to the Complainant and Respondent, with a copy to the Title IX Coordinator. The administrator's/panel's/board's notice to the Complainant and Respondent shall describe the appeal procedures, if any.

The administrator/panel/board may recommend, and the Title IX Coordinator may implement, additional measures that are designed to prevent the recurrence of sexual misconduct or respond to the effects of the sexual misconduct on the MICA community that include, but are not limited to: increased monitoring, supervision, or security at locations or activities where the sexual misconduct occurred; additional training and/or educational materials for students or groups; revision of the Policy; and campus climate surveys.

The administrator/panel/board may also recommend, and the Title IX Coordinator may implement, additional measures to remedy the effects of the sexual misconduct on the Complainant. These measures, which should be considered regardless of what interim measures were instituted, include but are not limited to: providing an escort for passage between classes and activities; ensuring the Complainant and Respondent do not share classes or extracurricular activities; moving the Respondent or Complainant (if the Complainant requests to be moved) to a different on-campus residence hall; providing victim focused services including medical, counseling and academic support services, such as tutoring; and arranging for the Complainant to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty.

## **Appeals**

Both parties have the right to appeal the resolution panel's finding of responsibility and/or imposition of sanction(s). A party has seven (7) calendar days from receipt of the resolution panel's determination to appeal. Any appeal must be filed in writing with the Vice President of Student Affairs and Dean of Students or a designee, who will decide all appeals. An appeal will involve a review of the file, including the investigative report, recording or transcript of the hearing, and decision of the resolution panel; the appeal does not involve another hearing, or meetings with the Complainant or Respondent.

The sole grounds for appeal are:

- A procedural error that could have affected the determination or sanction(s); and
- New information that was not available at the time of the investigation or hearing and that could reasonably have affected the determination or sanction(s).
- 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 individual complainant or respondent that affected the outcome of the matter.

If the Vice President of Student Affairs and Dean of Students or designee concludes that a change in the resolution panel's responsibility or sanctioning determination is warranted, they may (1) enter a revised determination; (2) send the matter back to the resolution panel to reconsider its determination or sanction; or (3) send the matter back to the investigation team for further investigation. The Vice President of Student Affairs and Dean of Students or designee will

simultaneously send the appeal determination, with the reasons, to the Complainant and Respondent, with a copy to the Title IX Coordinator. No further appeals are permitted.

In faculty and staff Respondent cases that involve a student Complainant, the parties may appeal a determination or sanction. In faculty and staff Respondent cases that do not involve a student, if departmental procedures allow an appeal with respect to procedural errors, findings or sanctions, such right to appeal shall be available equally to the Complainant and Respondent.

## **Notices of Outcome**

This section “Notice of Outcomes” applies to *all* Other Sexual Misconduct cases, irrespective of whether the Complainant or Respondent is a student or faculty or staff member.

In cases of Other Sexual Misconduct both the Complainant and the Respondent will be notified of the outcome of the complaint in writing simultaneously. In all such cases, this notice will include (a) whether it was found that the alleged misconduct occurred, (b) any sanctions imposed on the Respondent that directly relate to the Complainant, and (c) any steps taken to eliminate a hostile environment and prevent recurrence. The Complainant should also be notified of (d) any individual remedies offered or provided to the Complainant, and the Respondent should be notified of (e) any remaining sanctions imposed on the Respondent. Additionally, in cases alleging a sexual assault, relationship violence, or stalking, the Complainant and Respondent will be notified of all sanctions imposed against the Respondent, along with rationale for the result and sanctions.

In all cases, the notice will also include information on the procedures, if any, for the Complainant and Respondent to appeal the results of the disciplinary proceeding. Subsequent simultaneous written notice will be provided to the Complainant and Respondent if there is any change to the results that occurs prior to the time that such results become final, when such results become final, and the outcome of an appeal, if any.

## **Exclusivity of Process**

These Procedures for Other Sexual Harassment are the exclusive procedures for investigation of Other Sexual Misconduct.

## APPENDIX C

### Supportive Measures

MICA will maintain the privacy of the supportive measures, if the privacy does not impair MICA's ability to provide the supportive measures. MICA will act to ensure as minimal an academic impact on the parties as possible. MICA will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

## APPENDIX D

### Campus Security and Law Enforcement

MICA's Campus Safety Department operates 24/7, 365 days a year. They can be reached by calling:

- Dispatch – 410.225.2245
- Emergencies – 443.423.3333
- Email – [campus\\_safety@mica.edu](mailto:campus_safety@mica.edu)

When an urgent situation is reported to Campus Safety, patrol officers are dispatched to the scene to lend assistance and investigate. If Baltimore City Police/Fire/Ambulance (911) have not already been summoned by the reporting person, Campus Safety officers will call the appropriate agencies when emergency and/or police service is needed. Campus Safety and Baltimore emergency response personnel are responsive, well trained, and equipped to handle all emergencies.

Campus Safety can also assist in contact Baltimore City Police (911), and the submitting of a police report or request for a protective order.

## APPENDIX E

### Confidential Resources

The following on-campus resources are confidential, when acting in the scope of their duties:

1. Therapists and other mental health providers in the Student Counseling Center
2. Medical clinicians in Student Health Services
3. Father Grey Maggiano, MICA's non-denominational chaplain affiliated with the Office of Culture and Identity

## APPENDIX F

### Local Hospitals

**University of Maryland Medical Center – Midtown Campus**

827 Linden Avenue  
(410) 225-8000

**Mercy Medical Center**

227 St. Paul Place  
(410) 332-9000

Note: Mercy Medical Center has the ability to conduct Sexual Assault Forensic Evidence Exams (SAFE), which is a specialized exam conducted by a specially trained Sexual Assault Nurse Examiner. SAFE exams provide medical care and may collect evidence from the survivor and survivor's body.

**University of Maryland Medical Center – Downtown Campus**

22 South Greene Street  
(410) 328-8667