

Sexual Violence Prevention & Response

Violence Against Women Act (VAWA)

It is the intent of MTI College to provide a threat-free learning and working environment. Campus facilities are designed with student, faculty, and staff safety in mind. The campus grounds are illuminated and a contract security guard patrols the facilities during evening class hours.

MTI College strictly prohibits any form of sexual violence, including dating violence, domestic violence, sexual assault and stalking, or sexual harassment committed by or perpetrated against students, employees, or third parties regardless of their sexual orientation, gender identity, part- or full-time status, disability, race, or national origin; and extends to all MTI-related programs and services held on or off the MTI campus, and non-school related activities that affect the school environment. MTI's policies and response regarding sexual violence apply to victims of sexual violence, regardless of whether the perpetrator is known to the victim or not.

Programs to Promote Awareness and Prevention

Efforts to increase awareness and prevent sexual harassment, sexual violence, and discrimination include the following:

- At the beginning of each term during new student orientation, students participate in a discussion regarding the Clery Act and Title IX prohibitions against sexual harassment, sexual violence and discrimination.
- New students receive a handout entitled *Safety on Campus*. The handout explains MTI's policy and commitment to maintaining a campus environment free from sexual harassment, sexual violence, and discrimination. The handout includes the Title IX coordinators' contact information and describes the procedures for reporting a violation and how MTI will follow-up and investigate the complaint. The handout also contains general information and definitions of sexual violence, including dating violence, domestic violence, sexual assault, and stalking; and touches on topics such as confidentiality, interim measures, and retaliation. This handout is also available on the MTI College website.
- All employees receive the *Employee Health and Safety Manual* during their new employee orientation. The manual includes MTI's policy and commitment to maintaining a campus environment free from sexual harassment, sexual violence, and discrimination. The manual includes the Title IX coordinators' contact information and describes the procedures for reporting a violation and how MTI will follow-up and investigate the complaint. The handout also contains general information and definitions of sexual violence, including dating violence, domestic violence, sexual assault, and stalking; and touches on topics such as confidentiality, interim measures, and retaliation.
- Existing employees are required to review MTI's Student-Employee Anti-Harassment and Discrimination policy and the *Employee Health and Safety Manual* on an annual basis in conjunction with their annual performance review.

- Online training in preventing harassment and sexual violence and on the basics of FERPA is provided to the following audiences: New employees (upon hire); supervisory staff and other key employees (every two years); faculty (every other year in conjunction with annual performance review).
- Existing students receive links to the following policy documents via email on an annual basis. Students are encouraged to review these documents and contact the College if they have any questions. These and other campus policies may also be reviewed on the MTI College website (<https://www.mticollege.edu/mti-college/disclosures/>), the MTI College elearning website (<https://elearning.mticollege.edu/mod/folder/view.php?id=285803>) or on campus by request.
 - Drug and Alcohol Policy for a Drug-Free Campus and Workplace
 - Emergency Response and Evacuation
 - Reporting an On-Campus Crime or Emergency
 - Student-Employee Anti-Harassment and Discrimination Policy
 - Sexual Violence Prevention and Response – Violence Against Women Act (VAWA)
 - Student Rights under the Family Educational Rights and Privacy Act (FERPA)
- The MTI College elearning website (<https://www.mticollege.edu/mti-college/disclosures/>), which can be accessed by existing students and employees on or off campus, includes access to the Annual Campus Security Report, the MTI Alcohol and Drug policy, the Emergency Response and Evacuation procedures, the Safety on Campus handout, and the Employee Health and Safety manual. The site also includes links to local and online resources available for care and support, and information about prevention, risk reduction, bystander intervention, and facts and statistics about sexual violence. The site can be accessed by using an internet browser or by using the Moodle Mobile app on a smartphone or tablet.

Dating or Domestic Violence

For purposes of the *Clery Act*, dating violence and domestic violence are defined in federal Department of Education regulations and the Violence Against Women Act of 1994 as follows:

Dating Violence

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. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. For the purposes of complying with the requirements of this section and § 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Domestic Violence

Domestic violence is felony or misdemeanor crime 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 in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. For the purposes of complying with the requirements of this section and § 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Under California law, dating or domestic violence is defined as follows:

Domestic or Dating Violence (California Penal Code Section 13700)

“Abuse” means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

“Domestic violence” means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, “cohabitant” means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship.

Consent

The College follows the provisions of Section 67386 of the California Education Code, including the following:

“Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances: (1) The accused’s belief in affirmative consent arose from the intoxication or recklessness of the accused; or (2) The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented. In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances: (1) The complainant was asleep or unconscious; (2) The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity; or (3) The complainant was unable to communicate due to a mental or physical condition.

In the Case of Alleged Dating or Domestic Violence

Victims or witnesses to a crime that occurs on school premises and involves an MTI student, campus visitor, or employee are strongly encouraged to report the incident to the campus director, president or CFO. If a student or employee is a victim of dating or domestic violence, the victim has the option to notify the appropriate law enforcement authorities, including the local police, and request medical assistance. If the victim prefers, campus authorities will notify the law enforcement by calling 911. The victim may also decline notifying such authorities. The campus authority and/or a representative from the police or sheriff department will guide the victim through available options and support the victim.

The school and police strongly encourage the victim of dating or domestic violence to report the incident in a timely manner. Time is a critical factor for evidence collection and preservation. Filing a police report will ensure that a victim receives the necessary medical treatment and tests, at no expense to the victim; and it provides the opportunity for collection of evidence helpful in

prosecution, which cannot be obtained later. It is important to preserve evidence for the proof of a criminal offense, so do not disturb the area surrounding the incident.

The student or staff member can file a complaint with the campus director, president or CFO. An MTI Title IX coordinator will also be notified. Note: A Title IX coordinator is an employee of the College who receives annual training on issues relating to sexual or other unlawful harassment, discrimination, or sexual violence including dating violence, domestic violence, sexual assault and stalking; and on how to conduct an investigation that protects the safety of victims and promotes accountability. The complaint should outline all details of the event and include a list of any witnesses or documentation to help support the allegations. The complaint should be filed as soon as possible after the occurrence has taken place. If the victim does not wish to file a complaint or does not request the College to take action on his/her behalf, the victim must confirm so in writing. If the victim wishes to file a criminal complaint, he/she is free to do so at any time before, during or after the school's internal investigation. The College will not wait for the conclusion of a criminal investigation or criminal proceedings before it begins its own investigation.

A student or employee who reports to the school that he or she has been a victim of dating or domestic violence, whether the offense occurred on or off campus, shall be provided with a written explanation of the student's or employee's rights and information regarding existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community. In the event the victim wishes to obtain a restraining order, the handout includes links to information about various options and how to apply.¹ A restraining order (also called a protective order or a no-contact order) is a court-ordered document signed by a judge that prohibits the restrained person from harassing, making contact with, or assaulting the person seeking the order. MTI College does not issue orders of protection; however, it is MTI's policy and practice to comply and with and enforce such orders when it is made aware. Students or employees who have such orders in place, are encouraged to inform the College.

Led by a Title IX coordinator, the College investigates all complaints in a thorough, impartial and timely manner. The College takes prompt and equitable action to investigate and address any reports or complaints that come to the attention of school personnel, either formally or informally. The investigation may include addressing allegations that alcohol or drugs were involved in the incident. Typically, the investigation process takes approximately 60 days to complete; however, timeframes may vary based on the severity of the allegation and complexity of the investigation. MTI College uses a preponderance of evidence standard which means that the evidence presented,

¹ Information regarding restraining orders:

Sacramento Superior Court

<https://www.saccourt.ca.gov/restraining-orders/restraining-orders.aspx>

If you are seeking a civil harassment restraining order, you can obtain the necessary paperwork at the downtown Sacramento Superior Court, located at 720 9th Street Sacramento, CA 95814.

The Sacramento Regional Family Justice Center (FJC)

<http://www.hopethriveshere.org/>

The Sacramento Regional Family Justice Center can assist with applying for a Domestic Violence TRO by visiting the Center at the Family Relations Court House, Room 112 located at 3341 Power Inn Rd., Sacramento.

when compared with that opposing it, has more convincing force and produces the belief that the alleged act more likely occurred than not. In addition, the affirmative consent provisions of Section 67386 of the California Education Code are followed.

The proceedings will be conducted in a manner that is consistent with the school's policies and is transparent to the accuser and accused, which includes timely notice of meetings at which the accuser or accused, or both, may be present; provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and that will be conducted by school officials who do not have a conflict of interest or bias for or against the accuser or the accused. The accuser and the accused are entitled to the same opportunities to have an advisor of their choice present during the disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding. The school may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. The appropriate school officials will meet upon the conclusion of the hearing to discuss the facts of the complaint and to render a decision. Both the accuser and the accused will simultaneously be informed in writing of the outcome and any institutional disciplinary proceeding, the opportunity for appeal and the notification of the outcome of any appeal before the results become final, and when the results of the proceedings become final. The results include any initial, interim, or final decision by the school regarding any sanctions imposed, as well as the rationale for the results and any sanctions. In accordance with the Violence Against Women Act, the school is required to publish the results of the hearing(s); however, the names of the individuals involved will be withheld.

A student found guilty of violating the school's policy prohibiting dating or domestic violence could be criminally prosecuted in the state courts and may be reprimanded, sent to counseling, placed on probation, suspended, or expelled from the school for the first offense. Any information obtained during the school's investigation process will be shared with any parallel law enforcement investigation upon receipt of a court subpoena of the school's records.

At any time, the victim(s) may share information confidentially with counseling, advocacy, health, mental health, or sexual assault-related services. The school will protect the confidentiality of the victim(s) in accordance with the law. In some cases, the school may need to disclose some information about a victim to a third party to provide necessary accommodations or comply with protective measures. The school will only disclose information that is necessary to provide the accommodations or protective measures requested and will carefully consider who may have access to this information to minimize the risk to a victim's confidentiality. The school will inform the victim before sharing personally identifiable information about him or her and only if it is necessary to provide an accommodation or protective measure. Compliance with these provisions of the Violence Against Women Act does not constitute a violation of Section 444 of the General Education Provision Act (20U.S.C. 1232g), commonly referred to as the Family Education Rights to Privacy Act of 1974 (FERPA).

The College is committed to protecting the victim(s), ensuring that he or she has the ability to continue his/her educational activities in a safe environment before, during and after the investigation of the complaint. If the victim is a student, he/she will have the option to change his/her academic situation after an alleged incident of dating or domestic violence if such changes are reasonably available. Similarly, if the victim is an employee, he/she will have the option of changing his/her work situation if such changes are reasonably available. The school will also help with transportation or housing issues to accommodate the alleged victim, or any other protective measures that may be deemed necessary. The school will make available to the student a leave of absence or opportunity to drop and reenroll at a later date without incurring any additional charges or penalties. A financial aid advisor will meet with the victim to discuss his or her options regarding loan repayment or financial aid options. These, as well as other options will be provided to the alleged victim in writing, regardless of whether or not the victim chooses to report the crime to the police or file a complaint with the school.

An individual who is a victim or witness in an investigation of dating or domestic violence will not be subject to disciplinary sanctions for a violation of the institution's student conduct standards and expectations at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

Finally, the College does not tolerate acts of retaliation against an individual who raises an allegation of dating or domestic violence; or an individual who is cooperating in an investigation of such an allegation. No officer, employee, or agent of the school shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising his or her rights or responsibilities under any provision of the Violence Against Women Act. Any person found taking retaliatory action against such an individual will be subject to disciplinary action up to and including expulsion or termination.

Sexual Assault

For purposes of the *Clery Act*, sexual assault is defined in federal Department of Education regulations as follows:

Sexual Assault is defined as an offense that meets the definition of Rape, Fondling, Incest or Statutory Rape as used in the FBI's UCR program and included in Appendix A of 34 CFR Part 668.

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault is an offense that meets the definition of rape, fondling, incest, or statutory rape. Rape is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. Fondling is the touching of the private 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 his or her age or because of his or her temporary or permanent mental incapacity. Incest is the sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. Statutory rape is sexual intercourse with a person who is under the statutory age of consent.

Under California law, sexual assault is defined as follows:

Sexual Assault (California Penal Code Section 243.4)

(a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery.

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery.

(c) Any person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery.

(d) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery.

(e) (1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery.

Rape, which includes acquaintance rape: (California Penal Code Section 261)

Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

(a) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act.

(b) Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

(c) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.

(d) Where a person is at the time unconscious of the nature of the act, and this is known to the accused.

(e) Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

(f) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat.

Consent

The College follows the provisions of Section 67386 of the California Education Code, including the following:

"Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances: (1) The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused; or (2) The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances: (1) The complainant was asleep or unconscious; (2) The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand

the fact, nature, or extent of the sexual activity; or (3) The complainant was unable to communicate due to a mental or physical condition.

In the Case of Alleged Sexual Assault

Victims or witnesses to a crime that occurs on school premises and involves an MTI student, campus visitor, or employee are strongly encouraged to report the incident to the campus director, president or CFO. If a student or employee is a victim of sexual assault, the victim has the option to notify the appropriate law enforcement authorities, including the local police, and request medical assistance. If the victim prefers, campus authorities will notify the law enforcement by calling 911. The victim may also decline notifying such authorities. The campus authority and/or a representative from the police or sheriff department will guide the victim through available options and support the victim.

The school and police strongly encourage the victim of sexual assault to report the incident in a timely manner. Time is a critical factor for evidence collection and preservation. Filing a police report will ensure that a victim receives the necessary medical treatment and tests, at no expense to the victim; and it provides the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later. It is important to preserve evidence for the proof of a criminal offense, so do not disturb the area surrounding the incident.

The student or staff member can file a complaint with the campus director, president or CFO. An MTI Title IX coordinator will also be notified. Note: A Title IX coordinator is an employee of the College who receives annual training on issues relating to sexual or other unlawful harassment, discrimination, or sexual violence including dating violence, domestic violence, sexual assault and stalking; and on how to conduct an investigation that protects the safety of victims and promotes accountability. The complaint should outline all details of the event and include a list of any witnesses or documentation to help support the allegations. The complaint should be filed as soon as possible after the occurrence has taken place. If the victim does not wish to file a complaint or does not request the College to take action on his/her behalf, the victim must confirm so in writing. If the victim wishes to file a criminal complaint, he/she is free to do so at any time before, during or after the school's internal investigation. The College will not wait for the conclusion of a criminal investigation or criminal proceedings before it begins its own investigation.

A student or employee who reports to the school that he or she has been a victim of sexual assault, whether the offense occurred on or off campus, shall be provided with a written explanation of the student's or employee's rights and information regarding existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community. In the event the victim wishes to obtain a restraining order, the handout includes links to information about various options and how to apply.² A restraining order (also called a protective order or a no-

² Information regarding restraining orders:

contact order) is a court-ordered document signed by a judge that prohibits the restrained person from harassing, making contact with, or assaulting the person seeking the order. MTI College does not issue orders of protection; however, it is MTI's policy and practice to comply and with and enforce such orders when it is made aware. Students or employees who have such orders in place, are encouraged to inform the College.

Led by a Title IX coordinator, the College investigates all complaints in a thorough, impartial and timely manner. The College takes prompt and equitable action to investigate and address any reports or complaints that come to the attention of school personnel, either formally or informally. The investigation may include addressing allegations that alcohol or drugs were involved in the incident. Typically, the investigation process takes approximately 60 days to complete; however, timeframes may vary based on the severity of the allegation and complexity of the investigation. MTI College uses a preponderance of evidence standard which means that the evidence presented, when compared with that opposing it, has more convincing force and produces the belief that the alleged act more likely occurred than not. In addition, the affirmative consent provisions of Section 67386 of the California Education Code are followed.

The proceedings will be conducted in a manner that is consistent with the school's policies and is transparent to the accuser and accused, which includes timely notice of meetings at which the accuser or accused, or both, may be present; provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and that will be conducted by school officials who do not have a conflict of interest or bias for or against the accuser or the accused. The accuser and the accused are entitled to the same opportunities to have an advisor of their choice present during the disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding. The school may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. The appropriate school officials will meet upon the conclusion of the hearing to discuss the facts of the complaint and to render a decision. Both the accuser and the accused will simultaneously be informed in writing of the outcome and any institutional disciplinary proceeding, the opportunity for appeal and the notification of the outcome of any appeal before the results become final, and when the results of the proceedings become final. The results include any initial, interim, or final decision by the school regarding any sanctions imposed, as well as the rationale for the results and any sanctions. In accordance with the Violence Against Women Act, the school is required to

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publish the results of the hearing(s); however, the names of the individuals involved will be withheld.

A student found guilty of violating the school's policy prohibiting sexual assault could be criminally prosecuted in the state courts and may be reprimanded, sent to counseling, placed on probation, suspended, or expelled from the school for the first offense. Any information obtained during the school's investigation process will be shared with any parallel law enforcement investigation upon receipt of a court subpoena of the school's records.

At any time, the victim(s) may share information confidentially with counseling, advocacy, health, mental health, or sexual assault-related services. The school will protect the confidentiality of the victim(s) in accordance with the law. In some cases, the school may need to disclose some information about a victim to a third party to provide necessary accommodations or comply with protective measures. The school will only disclose information that is necessary to provide the accommodations or protective measures requested and will carefully consider who may have access to this information to minimize the risk to a victim's confidentiality. The school will inform the victim before sharing personally identifiable information about him or her and only if it is necessary to provide an accommodation or protective measure. Compliance with these provisions of the Violence Against Women Act does not constitute a violation of Section 444 of the General Education Provision Act (20U.S.C. 1232g), commonly referred to as the Family Education Rights to Privacy Act of 1974 (FERPA).

The College is committed to protecting the victim(s), ensuring that he or she has the ability to continue his/her educational activities in a safe environment before, during and after the investigation of the complaint. If the victim is a student, he/she will have the option to change his/her academic situation after an alleged incident of sexual assault if such changes are reasonably available. Similarly, if the victim is an employee, he/she will have the option of changing his/her work situation if such changes are reasonably available. The school will also help with transportation or housing issues to accommodate the alleged victim, or any other protective measures that may be deemed necessary. The school will make available to the student a leave of absence or opportunity to drop and reenroll at a later date without incurring any additional charges or penalties. A financial aid advisor will meet with the victim to discuss his or her options regarding loan repayment or financial aid options. These, as well as other options will be provided to the alleged victim in writing, regardless of whether or not the victim chooses to report the crime to the police or file a complaint with the school.

An individual who is a victim or witness in an investigation of sexual assault will not be subject to disciplinary sanctions for a violation of the institution's student conduct standards and expectations at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

Finally, the College does not tolerate acts of retaliation against an individual who raises an allegation of sexual assault; or an individual who is cooperating in an investigation of such an allegation. No officer, employee, or agent of the school shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising his or her rights or responsibilities under any provision of the Violence Against Women Act. Any person found taking retaliatory action against such an individual will be subject to disciplinary action up to and including expulsion or termination.

Stalking

For purposes of the *Clery Act*, stalking is defined in federal Department of Education regulations and the Violence Against Women Act of 1994 as follows:

Stalking is defined as 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 the purposes of this definition, course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. A reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Under California law, stalking is defined as follows:

Stalking (California Penal Code 646.9)

Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking.

Consent

The College follows the provisions of Section 67386 of the California Education Code, including the following:

“Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances: (1) The accused’s belief in affirmative consent arose from the intoxication or recklessness of the accused; or (2) The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances: (1) The complainant was asleep or unconscious; (2) The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity; or (3) The complainant was unable to communicate due to a mental or physical condition.

In the Case of Alleged Stalking

Victims or witnesses to a crime that occurs on school premises and involves an MTI student, campus visitor, or employee are strongly encouraged to report the incident to the campus director, president or CFO. If a student or employee is a victim of stalking, the victim has the option to notify the appropriate law enforcement authorities, including the local police, and request medical assistance. If the victim prefers, campus authorities will notify the law enforcement by calling 911. The victim may also decline notifying such authorities. The campus authority and/or a representative from the police or sheriff department will guide the victim through available options and support the victim.

The school and police strongly encourage the victim of stalking to report the incident in a timely manner. Time is a critical factor for evidence collection and preservation. Filing a police report will

ensure that a victim receives the necessary medical treatment and tests, at no expense to the victim; and it provides the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later. It is important to preserve evidence for the proof of a criminal offense, so do not disturb the area surrounding the incident.

The student or staff member can file a complaint with the campus director, president or CFO. An MTI Title IX coordinator will also be notified. Note: A Title IX coordinator is an employee of the College who receives annual training on issues relating to sexual or other unlawful harassment, discrimination, or sexual violence including dating violence, domestic violence, sexual assault and stalking; and on how to conduct an investigation that protects the safety of victims and promotes accountability. The complaint should outline all details of the event and include a list of any witnesses or documentation to help support the allegations. The complaint should be filed as soon as possible after the occurrence has taken place. If the victim does not wish to file a complaint or does not request the College to take action on his/her behalf, the victim must confirm so in writing. If the victim wishes to file a criminal complaint, he/she is free to do so at any time before, during or after the school's internal investigation. The College will not wait for the conclusion of a criminal investigation or criminal proceedings before it begins its own investigation.

A student or employee who reports to the school that he or she has been a victim of stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the student's or employee's rights and information regarding existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community. In the event the victim wishes to obtain a restraining order, the handout includes links to information about various options and how to apply.³ A restraining order (also called a protective order or a no-contact order) is a court-ordered document signed by a judge that prohibits the restrained person from harassing, making contact with, or assaulting the person seeking the order. MTI College does not issue orders of protection; however, it is MTI's policy and practice to comply and with and enforce such orders when it is made aware. Students or employees who have such orders in place, are encouraged to inform the College.

Led by a Title IX coordinator, the College investigates all complaints in a thorough, impartial and timely manner. The College takes prompt and equitable action to investigate and address any reports or complaints that come to the attention of school personnel, either formally or informally.

³ Information regarding restraining orders:

Sacramento Superior Court

<https://www.saccourt.ca.gov/restraining-orders/restraining-orders.aspx>

If you are seeking a civil harassment restraining order, you can obtain the necessary paperwork at the downtown Sacramento Superior Court, located at 720 9th Street Sacramento, CA 95814.

The Sacramento Regional Family Justice Center (FJC)

<http://www.hopethriveshere.org/>

The Sacramento Regional Family Justice Center can assist with applying for a Domestic Violence TRO by visiting the Center at the Family Relations Court House, Room 112 located at 3341 Power Inn Rd., Sacramento.

The investigation may include addressing allegations that alcohol or drugs were involved in the incident. Typically, the investigation process takes approximately 60 days to complete; however, timeframes may vary based on the severity of the allegation and complexity of the investigation. MTI College uses a preponderance of evidence standard which means that the evidence presented, when compared with that opposing it, has more convincing force and produces the belief that the alleged act more likely occurred than not. In addition, the affirmative consent provisions of Section 67386 of the California Education Code are followed.

The proceedings will be conducted in a manner that is consistent with the school's policies and is transparent to the accuser and accused, which includes timely notice of meetings at which the accuser or accused, or both, may be present; provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and that will be conducted by school officials who do not have a conflict of interest or bias for or against the accuser or the accused. The accuser and the accused are entitled to the same opportunities to have an advisor of their choice present during the disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding. The school may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. The appropriate school officials will meet upon the conclusion of the hearing to discuss the facts of the complaint and to render a decision. Both the accuser and the accused will simultaneously be informed in writing of the outcome and any institutional disciplinary proceeding, the opportunity for appeal and the notification of the outcome of any appeal before the results become final, and when the results of the proceedings become final. The results include any initial, interim, or final decision by the school regarding any sanctions imposed, as well as the rationale for the results and any sanctions. In accordance with the Violence Against Women Act, the school is required to publish the results of the hearing(s); however, the names of the individuals involved will be withheld.

A student found guilty of violating the school's policy prohibiting stalking could be criminally prosecuted in the state courts and may be reprimanded, sent to counseling, placed on probation, suspended, or expelled from the school for the first offense. Any information obtained during the school's investigation process will be shared with any parallel law enforcement investigation upon receipt of a court subpoena of the school's records.

At any time, the victim(s) may share information confidentially with counseling, advocacy, health, mental health, or sexual assault-related services. The school will protect the confidentiality of the victim(s) in accordance with the law. In some cases, the school may need to disclose some information about a victim to a third party to provide necessary accommodations or comply with protective measures. The school will only disclose information that is necessary to provide the accommodations or protective measures requested and will carefully consider who may have access to this information to minimize the risk to a victim's confidentiality. The school will inform the victim before sharing personally identifiable information about him or her and only if it is

necessary to provide an accommodation or protective measure. Compliance with these provisions of the Violence Against Women Act does not constitute a violation of Section 444 of the General Education Provision Act (20U.S.C. 1232g), commonly referred to as the Family Education Rights to Privacy Act of 1974 (FERPA).

The College is committed to protecting the victim(s), ensuring that he or she has the ability to continue his/her educational activities in a safe environment before, during and after the investigation of the complaint. If the victim is a student, he/she will have the option to change his/her academic situation after an alleged incident of stalking if such changes are reasonably available. Similarly, if the victim is an employee, he/she will have the option of changing his/her work situation if such changes are reasonably available. The school will also help with transportation or housing issues to accommodate the alleged victim, or any other protective measures that may be deemed necessary. The school will make available to the student a leave of absence or opportunity to drop and reenroll at a later date without incurring any additional charges or penalties. A financial aid advisor will meet with the victim to discuss his or her options regarding loan repayment or financial aid options. These, as well as other options will be provided to the alleged victim in writing, regardless of whether or not the victim chooses to report the crime to the police or file a complaint with the school.

An individual who is a victim or witness in an investigation of stalking will not be subject to disciplinary sanctions for a violation of the institution's student conduct standards and expectations at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

Finally, the College does not tolerate acts of retaliation against an individual who raises an allegation of stalking or an individual who is cooperating in an investigation of such an allegation. No officer, employee, or agent of the school shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising his or her rights or responsibilities under any provision of the Violence Against Women Act. Any person found taking retaliatory action against such an individual will be subject to disciplinary action up to and including expulsion or termination.

Engaged Bystanders

As members of the MTI College community, every student and employee plays a critical role in preventing crime - particularly crimes that are sexual in nature - through their words and actions. An engaged bystander is someone who intervenes when he/she observes or becomes aware of behaviors that are disrespectful, harmful, or promote sexual violence. Research has shown that engaged bystanders are crucial in preventing sexual violence, because they can minimize a situation early and stop behaviors from escalating. This being said, safety is critical when deciding how and when to respond as an engaged bystander. Further, given that every situation and every individual is different, it is a decision that each person must make for him or herself.

The National Sexual Violence Resource Center (www.nsvrc.org/) offers the following suggestions:

When considering how to respond, ask yourself:

1. Is there a problem?
2. Does someone need help?
3. What are my options?
4. Is it safe for me to intervene? If not, take action by getting help.

In addition, there are many ways an engaged bystander can make a difference. Some examples include the following:

- Speak up when you hear sexual innuendos or jokes about rape, because sexual violence is never funny.
- When out with friends or at a party, make sure your friends get home safely.
- Be a role model online (e.g. Facebook, Twitter and other social media) by calling out inappropriate behavior and showing support for survivors by challenging violent and abusive comments, alerting the authorities if you see potentially illegal behavior, or posting articles and information that talk about healthy relationships and healthy sexuality.
- Finally, while it is better to get involved before sexual violence actually happens, you can also be an engaged bystander by being supportive and believing victims when they disclose abuse.

Reducing Risk

Two of the most important things we all can do to protect ourselves and those we care about are to be aware and proactive. While we cannot completely eliminate the risk of something happening, there are things we can do to increase our safety and reduce the risk of an assault. The following websites contain excellent and current information on the topics of safety and prevention of sexual assault. We encourage our students and employees to visit these sites and share the information with friends and colleagues.

RAINN (Rape, Abuse & Incest National Network) - <https://www.rainn.org/>

RAINN is the nation's largest anti-sexual violence organization. RAINN created and operates the National Sexual Assault Hotline (800.656.HOPE and online.rainn.org) in partnership with more than

1,100 local sexual assault service providers across the country and operates the DoD Safe Helpline for the Department of Defense. RAINN also carries out programs to prevent sexual violence, help victims and ensure that rapists are brought to justice.

- Safety Planning
<https://www.rainn.org/get-information/sexual-assault-prevention/safety-plan>
- If Someone is Pressuring You
<https://www.rainn.org/get-information/sexual-assault-prevention/avoiding-pressure>
- Steps You Can Take to Prevent Sexual Assault
<https://www.rainn.org/get-information/sexual-assault-recovery/protecting-your-friends>
- What Consent Looks Like
<https://www.rainn.org/get-information/sexual-assault-prevention/what-is-consent>
- What Can Bystanders Do?
<https://www.rainn.org/get-information/sexual-assault-prevention/bystanders-can-help>

Clery Center - <http://clerycenter.org/>

Focused on advocacy, education and collaboration, the Clery Center for Security on Campus is a nonprofit organization dedicated to safe campus communities nationwide. Their mission is to work with college and university communities to create safer campuses.

The National Sexual Violence Resource Center (www.nsvrc.org/)

The NSVRC's Mission is to provide leadership in preventing and responding to sexual violence through collaboration, sharing and creating resources, and promoting research. The center believes that it is imperative to improve responses to those who have been victimized by sexual violence in order to ensure that they are believed, helped, and supported throughout their recovery process.