

## **Student and Employee Anti-Harassment and Discrimination**

### **Student and Employee Anti-Harassment and Discrimination** (Revised 03/2022)

MTI College (“MTI”) is committed to providing a work and school environment free of unlawful harassment or discrimination. In furtherance of this commitment, all students and employees are required to take the mandatory sexual harassment and prevention training upon starting in school or employment at MTI, respectively. MTI’s policy prohibits harassment or discrimination based on race, religion, creed, color, national origin, ancestry, sex (including pregnancy, childbirth, or related medical conditions), military or veteran status, physical or mental disability, medical condition, marital status, age, sexual orientation, gender, gender identity or expression, genetic information, or any other basis protected by the federal, state, or local law. Additionally, in accordance with Title IX of the Education Amendments of 1972, MTI prohibits discrimination based on sex, which includes sexual harassment and sexual violence, and MTI has jurisdiction over the investigation of Title IX complaints.

Title IX applies to all of MTI’s educational programs or activities, whether such programs or activities occur on-campus or at an off-campus events. MTI’s anti-harassment policy applies to all persons involved in the operation of MTI and prohibits unlawful harassment by any employee of MTI, as well as students, customers or service guests, third parties, vendors, or anyone who does business with MTI. It further extends to prohibit unlawful harassment by or against students.

Any employee, student, or contract worker who violates this policy will be subject to disciplinary action. To the extent a customer or service guest, vendor, or other person with whom MTI does business engages in unlawful harassment or discrimination, MTI will take appropriate corrective action. The grievance procedure will provide that complaints may be filed about discrimination in any academic, educational, extracurricular, athletic, or other programs operated or sponsored by, or related to, MTI, whether the programs take place on the campus of MTI, during a school-sponsored field trip, or during other off-campus events.

As part of MTI’s commitment to providing a harassment-free working and learning environment, this policy shall be disseminated to MTI community through publications such as MTI’s catalog, website, new employee orientations, student orientations, and other appropriate channels of communication. MTI will provide training to key staff members to enable them to handle any allegations of discrimination and harassment, including sexual harassment or sexual violence, promptly and effectively. MTI will respond quickly to all reports, and will take appropriate action to prevent, to correct, and, if necessary, to discipline behavior that violates this policy.

#### **Definitions Regarding Sex Discrimination**

*Dating violence* is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

*Domestic violence* includes 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 that person’s acts under the domestic or family violence laws of the jurisdiction.

Sex discrimination is defined as treating individuals differently on the basis of sex with regard to any aspect of services, benefits, or opportunities MTI provides, such as:

- Treating a person differently in determining whether he or she satisfies any requirement or condition for the provision of an aid, benefit, or service.
- Providing different aid, benefits, or services, or providing aid, benefits, or services in a different manner.
- Denying any person an aid, benefit, or service.
- Subjecting any person to separate or different rules of behavior, sanctions, or other treatment in providing an aid, benefit, or service.
- Aiding or perpetuating discrimination against any person by providing significant assistance to any agency, organization, or person, which discriminates on the basis of sex in providing any aid, benefit, or service to students or employees.
- Otherwise limiting any person in the enjoyment of any right, privilege, advantage, or opportunity.

Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following:

1. An employee of MTI conditioning the provision of an aid, benefit, or service of MTI on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30). The federal definitions identified in this paragraph are included as a part of MTI's policy.

Examples of conduct which may be sexual harassment include, but are not limited to:

- direct propositions of a sexual nature;
- sexual innuendoes and other seductive behavior, including subtle pressure for sexual activity such as repeated, unwanted requests for dates, and repeated inappropriate personal comments, staring, or touching;
- direct or implied threats that submission to sexual advances will be a condition of employment, promotion, grades, etc;
- conduct (not legitimately related to the subject matter of a course or curriculum, if one is involved) that has the effect of discomforting, humiliating or both, and that includes one or more of the following:
  - comments of a sexual nature, including sexually explicit statements, questions, jokes, anecdotes, or graphic material (e.g., visuals, such as screen savers, which are sexually explicit);
  - unnecessary or unwanted touching, patting, massaging, hugging or brushing against a person's body or other conduct of a physical nature;
  - remarks of a sexual nature about a person's clothing or body;
  - insulting sounds or gestures, whistles, or catcalls;

- invading someone's personal space or blocking her/his path;
- unwelcome and inappropriate letters, telephone calls, electronic mail, instant or text messaging, or other communications;
- displaying sexually suggestive objects, pictures, cartoons or posters (e.g. screen savers);
- a consensual romantic or sexual relationship which:
  - causes adverse treatment of third parties; or
  - creates a hostile or intimidating working or learning environment for third parties;
  - stalking (which is also criminal behavior);
  - sexual assault (which is also criminal behavior).

Sexual violence is defined as physical sexual acts engaged in without the consent of the other person or when the other person is unable to consent to the activity. Sexual violence includes sexual assault, rape, battery, and sexual coercion; domestic violence; dating violence; and stalking.

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.

### **General Definitions**

Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient.

Campus is defined as any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).

Complainant is defined as an individual *who is alleged to be the victim* of conduct that could constitute sexual harassment. Any third-party, as well as the complainant, may report sexual harassment. While parents and guardians do not become complainants (or respondents); however, MTI recognizes the legal rights of parents and guardians to act on behalf of parties (including by filing formal complaints) in Title IX matters.

Consent is informed, voluntary, and revocable. Consent is an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity. It must be given without coercion, force, threats, or intimidation. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.

Corrective measures are defined as actions taken to address a security breach or privacy violation, with the intent to counteract the breach or violation and reduce future risks. MTI's owner and Director are MTI's designated officials who have the authority to institute corrective measures.

Formal complaint is defined as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that MTI investigate the allegation of sexual harassment.

Non-campus building or property is defined as any building or property owned or controlled by a student organization recognized by the institution; and any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

Public property is defined as all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.

Respondent is defined as an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Responsible Employees is any employee who (1) has the authority to take action to redress sexual violence; (2) has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator/appropriate school officials; or (3) a student, staff or faculty member that could be reasonably believed to have authority or duty to report

Sexual assault is defined as an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sexual assault occurs when a physical sexual activity is engaged in without the consent of the other person or when the other person is unable to consent to the activity. The activity or conduct may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, and taking advantage of the other person's incapacitation (including voluntary intoxication).

Supportive measures are defined as individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

Rape Shield Protections limit or prohibit the use of evidence of a victim's past sexual history to undermine that victim's credibility. The purpose of rape shield laws is to protect victims from the emotional distress of being cross-examined about their sexual history on the witness stand. Evidence regarding the victim's reputation and evidence of past sexual behavior not related to the rape accusation at hand is prohibited.

### **Prohibited Conduct**

Title IX protects students' rights to educational opportunities free from sex discrimination. This policy strictly prohibits sexual or other unlawful harassment or discrimination, as well as sexual violence, dating violence, domestic violence and stalking, as defined above. Sexual or other unlawful harassment or discrimination that includes any verbal, physical, or visual conduct, racial epithets, slurs and derogatory remarks, stereotypes, jokes, posters or cartoons based on race, religion, creed, color, national origin, ancestry, sex (including pregnancy, childbirth, or related medical conditions), military or veteran status, physical or mental disability, medical condition, marital status, age, sexual orientation, gender, gender identity or expression, genetic information, or any other basis protected by the federal, state, or local law basis if:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education or employment;
- An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (quid pro quo);
- Submission to, or rejection of, such conduct by an individual is used as a basis for decisions concerning that individual's education or employment; or
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's

education program or activity. It creates a hostile or offensive environment, which means the alleged conduct is sufficiently serious to limit or deny a student or student's ability to participate or benefit from the student's education program.

Sexual harassment is conduct based on sex, whether directed toward a person of the opposite or same sex, and may include explicit sexual propositions, sexual innuendo, suggestive comments, sexually oriented "kidding" or "teasing," practical jokes, jokes about or displays of obscene printed or visual material, questions about sexual fantasies, preferences, or history, and physical contact, such as patting, pinching, or intentionally brushing against another person's body. Gender-based harassment, including acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping are strictly prohibited, even if those acts do not involve conduct of a sexual nature.

### **Complaint/Grievance Procedure**

The following grievance procedures shall be used to address sex discrimination complaints filed by students/ employees or complaints filed on their behalf against employees, other students, or third parties.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours, by using the telephone number or e-mail address, or by mail to the office address, listed below for the Title IX Coordinator. Only a complainant may file a formal complaint that initiates a Title IX grievance procedure.

If you believe that you have experienced or witnessed harassment or sexual violence, you need to notify the Title IX Coordinator as soon as possible after the incident. Do not allow an inappropriate situation to continue by not reporting it, regardless of who is creating the situation. No employee, contract worker, student, vendor, customer or service guest, or other person who does business with MTI is exempt from the prohibitions in this policy. MTI Director or Education Leader, if they are informed of a Title IX complaint will refer all harassment complaints to the Title IX Coordinator. In order to facilitate the investigation, your complaint should include details of the incident or incidents, dates and times, names of the individuals involved, and names of any witnesses. A sex discrimination complaint should be filed within seven (7) days from the date of the alleged discriminatory incident in order for MTI to take timely and appropriate action. All documentation pertaining to the complaint/grievance process will be confidential. The complaint/grievance once received will be maintained in the Title IX Coordinator's office, which has limited staff access.

All complaints involving a student, employee, contract worker, vendor, customer or service guest, or other person who does business with MTI will be referred to the campus's Title IX Coordinator to begin the complaint process outline in this policy. The Title IX Coordinator is listed below and has the responsibility of Intake reports and complaints, initiating the formal complaint process, and providing supportive measures to both the complainant and respondent.

If MTI has actual knowledge of sexual harassment in an educational program or activity at MTI, against a person in the United States, they will respond promptly in a manner that is not deliberately indifferent. A school is considered deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

The grievant/complainant may use the Title IX Grievance Form, but it is not required, to file a Title IX discrimination complaint.

*Title IX Coordinator:*  
ERIC G. FERNANDEZ

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5221 MADISON AVENUE, SACRAMENTO, CA 95841  
[Efernandez@mticollege.edu](mailto:Efernandez@mticollege.edu)

MTI ensures that its Title IX Coordinator(s), Investigator(s), Decision-Maker(s), and Informal Resolution Facilitator(s) have adequate training on what constitutes sexual harassment, including sexual violence, dating violence, domestic violence, sex discrimination, and stalking, and that they understand how MTI's grievance procedures operate. Please refer to the end of this policy for a listing of the various roles of individuals involved in the Title IX process, their responsibilities, and training requirements.

### **Roles in the Process**

#### **Title IX Coordinator**

- Oversees Title IX Compliance
- Ensures prompt and equitable resolutions
- Establishes a centralized reporting process for all sexual harassment/ misconduct allegations on campus
- Conducts ongoing and annual climate checks, tracking, and monitoring of sexual harassment/ misconduct allegations on campus
- Coordinates all training, education, and prevention efforts

#### **Title IX Investigator**

- Supports the Title IX Coordinator with investigations
- Serves as a non-decision making fact finder in the process
- Conducts interviews and collects evidence
- Identifies relevant witnesses
- Compiles findings into a formal investigative report

#### **Advisor**

- Accompanies the reporting and responding parties in the process, but does not serve as an advocate or representative
- May be a person of the parties' choosing, including an attorney; if not chosen, an advisor may be assigned for a live hearing
- Asks questions on behalf of the parties in the cross-examination portion of the live hearing

#### **Decision-Maker**

- Serves as the decision-maker in the process once it reaches a live hearing
- May not have any conflict of interests or biases in favor of or against either party
- May not be the Title IX Coordinator, Investigator, or Advisor for either party

#### **Appeals Panelist**

- Serves as the decision-maker in the student process after (1) the dismissal of a formal complaint or any included allegations and/or (2) determination regarding responsibility
- May not have any conflicts of interests or biases in favor or against either party
- May not be the Title IX Coordinator, Investigator, or decision-makers

#### **Reporters**

We encourage all individuals who have a Title IX complaint to meet with the Title IX Coordinator to begin the formal complaint process. If a Responsible Employee, who are not Title IX Coordinators, are informed of a Title IX complaint they must notify the Title IX Coordinator of the complaint immediately, as long as they have the Complainant's consent that they can report the incident to the Title IX Coordinator. Responsible Employees are the only school employees that a Complainant may discuss Title IX allegations with that are required under MTI's policy to be obligated to inform the Title IX Coordinator of information that they received, as long as the Complainant grants that authority. Once any of these reporters are notified of complaint allegations, the notice triggers the start of the complaint process by the Title IX Coordinator.

### **Anonymous Reporting**

Any individual may make an anonymous report concerning an act of sexual harassment or other forms of misconduct (e.g., dating or domestic violence or stalking). An individual may report the incident without disclosing his/her name, identifying the Respondent or requesting any action. Depending on the level of information available about the incident or the individuals involved, however, MTI College's ability to respond to an anonymous report may be limited. Anonymous reports may be the Title IX Coordinator.

### **Interim Protections/Corrective Measures**

Once a report has been made, MTI College will take steps to reasonably protect employees and students during an investigation and/or student discipline process. Upon receipt of a report, MTI College will provide interim support and reasonable protective/corrective measures to provide a safe educational and work environment. MTI College will determine the necessity and scope of any interim measures keeping in mind both the Complainant's and Respondent's respective positions. Even when a Complainant or Respondent does not specifically request that protective/corrective action be taken, MTI College may choose to impose interim measures at its discretion to ensure the safety of any individual, the broader College community or the integrity of the review process. The range of interim measures may include no contact directives, changes in class or work schedules, interim suspension or other measures as necessary. Students seeking such assistance should speak with the Title IX Coordinator, who will coordinate such requests on the behalf of the student. MTI College will maintain contact with the parties to ensure that all safety, emotional, and physical well-being concerns are being addressed.

### **Formal Complaint**

A "formal complaint" is defined as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that MTI investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of MTI. A formal complaint may be filed with MTI's Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information located in MTI's policy. The phrase "document filed by a complainant" means a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

The Title IX Coordinator will meet with the complainant to explain the process of filing a formal complaint. The complainant must be the alleged victim unless the parent or legal guardian has a legal right to act on their behalf. Anyone may report a Title IX violation; however, only a complainant may file a formal complaint that initiates a Title IX grievance procedure. The Title IX Coordinator will defer to the complainant's wishes as to whether or not they want to file a formal complaint.

If the Title IX Coordinator is the one who signs and initiates a formal complaint, the Title IX Coordinator is not a complainant or a party during a grievance process and must comply with requirements for Title IX personnel to be free from conflicts of interest and bias.

MTI's Title IX Policy provides for a consistent, transparent grievance process for resolving formal complaints of sexual harassment. MTI's policy is required to treat complainants equitably by providing remedies any time a respondent is found responsible and treat respondents equitably by not imposing disciplinary sanctions without following the grievance process prescribed in MTI's policy. Any remedies, which are required to be provided to a complainant when a respondent is found responsible, will be designed to maintain the complainant's equal access to education and may include the same individualized services described as supportive measures; however, any remedies imposed do not need to be non-disciplinary or non-punitive and need not avoid burdening the respondent.

Once a formal complaint has been filed, MTI will provide a written notice to each of the parties involved, which will include a copy of MTI's written Grievance Process, a list of the allegations, including specific information regarding the allegations, and a notice that the parties have a right to an advisor. The advisor does not need to be a lawyer. If during the investigation additional allegations are investigated, then a new notice must be provided to the parties, which identifies the new issues.

### **Retaliation and/or Violation of Interim Protections**

MTI College prohibits any form of retaliation, intimidation, threats, coercion, discrimination, or harassment against any individual who filed or otherwise participated in the filing or investigation of a complaint of discrimination or any other violations of College policies, including but not limited to MTI College's Code of Conduct. This prohibition includes threats or other forms of intimidation and/or retaliation against the family or friends of a student or employee who brings a complaint under MTI College's Title IX Policy, or those who assist a student or employee in bringing a complaint, or those who participate in an investigation and/or student discipline process for an alleged violation of MTI College's Code of Conduct or other College policy. Actions do not have to be on the basis of sex or involve sexual harassment to constitute retaliation. Retaliation complaints may use the same grievance process as sexual harassment complaints. Any individual who believes he or she has been subjected to retaliation may file a separate complaint under this procedure. MTI will keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding, which does not constitute retaliation.

The following circumstances *do not constitute* retaliation:

1. Exercising one's rights protected under the First Amendment.
2. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.
3. Charging an individual with code of conduct violations that do not involve sexual harassment but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment; however, for the purpose of interfering with any right or privilege secured by Title IX does constitute retaliation.

It is a violation of MTI College's policy to retaliate in any way against an individual or a group because the individual or group of individuals reported an allegation of sexual harassment or misconduct. MTI College recognizes that retaliation can take many forms, may be committed by an individual or a group against an individual or a group, and that a Respondent can also be the subject of retaliation by the Complainant or a third party. MTI College will take immediate and responsive action to any report of retaliation and may pursue disciplinary action as appropriate.

Not only is retaliation a violation of MTI College's policy but may also be a violation of the law. An allegation of retaliation constitutes an independent basis for investigation and imposition of sanctions on the retaliating student or employee if determined to have occurred. All conduct that is believed to constitute retaliation should be reported immediately to Eric G. Fernandez, Title IX Coordinator, at (916) 339-4340 or at [Efernandez@mticollege.edu](mailto:Efernandez@mticollege.edu)

The reporting procedures described in this Policy also apply to allegations of retaliation.

### **Grievance Process**

MTI's grievance procedures are designed to ensure that the Title IX complaint process is free from conflicts of interest and to treat everyone equally during the process, which requires Title IX personnel (Title IX Coordinators, Investigators, Decision-Makers, and people who facilitate any informal resolution process) to be free from conflicts of interest or bias for or against complainants or respondents. In order to accomplish this, we have put into place the following requirements.

1. All Title IX personnel must include training on the definition of sexual harassment, the scope of MTI's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

2. MTI provides all decision-makers with training on any technology to be used at a live hearing. In addition, MTI's decision-makers and investigators receive training on issues of relevance, including how to apply the rape shield protections provided (only for complainants), prior to participating in any Title IX investigation.
3. The federal regulations governing Title IX allegations requires that there is a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. MTI may remove a respondent from the recipient's educational program or activity on an emergency basis, provided that MTI undertakes an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. In the case of a School employee, MTI may place the individual on mandatory administrative leave.
4. All of the materials MTI uses to train Title IX personnel are located on MTI's website under the Required Disclosures section on the home page.
5. Once the hearing takes place, the Decision-Maker may take the following actions against the respondent: dismiss the complaint; place the individual on probation; suspend the individual; terminate the individual; require the individual to go to counseling; change the respondent's schedule; or require the individual to retake the Title IX training.
6. MTI may provide the following remedies to a complainant: an escort; removal from shared classes; academic support services, such as tutoring; and medical or counseling services.
7. MTI has chosen to use the preponderance of the evidence standard, for all formal complaints of sexual harassment (including where employees and faculty are respondents).
8. Upon completion of the Title IX process, either party may file an appeal of the decision. MTI's appeal process is outlined below.
9. Throughout the grievance process MTI will not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
10. All provisions, rules, or practices that are a part of MTI's grievance process for handling formal complaints of sexual harassment apply equally to both parties.

To initiate a criminal investigation, reports of sexual violence should be made to "911" or local law enforcement. The criminal process is separate from MTI's disciplinary process. To the extent that an employee or contract worker is not satisfied with MTI's handling of a harassment or discrimination complaint, he or she may also contact the appropriate state or federal enforcement agency for legal relief.

MTI will also notify Complainants of the right to proceed simultaneously with a criminal investigation for incidents of sexual harassment or misconduct that may also be crimes under the law and a Title IX complaint. MTI will not wait for the criminal investigation or criminal proceeding to be concluded before beginning its own investigation. In every case of sexual violence, MTI College will notify the Sacramento Sheriff Department of the allegations. MTI College will provide a Complainant information concerning how to make a criminal report. In the event that law enforcement agencies pursue the complaint, MTI College will cooperate to the extent permitted by law.

### **Investigation of Complaints**

MTI College will investigate ***every reported complaint*** of unlawful discrimination or harassment. In response to all complaints, MTI promises prompt, thorough, professional and equitable resolution through a reliable and impartial investigation of complaints, including the opportunity for both parties to present witnesses or other evidence. MTI will follow its written grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures, against a respondent. During this

process MTI will not restrict an individual's rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX.

The federal regulations require a school to investigate sexual harassment allegations in any formal complaint, which can be filed by a complainant, or signed by a Title IX Coordinator. The regulations affirm that a complainant's wishes with respect to whether MTI investigates should be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

If the allegations in a formal complaint do not meet the definition of sexual harassment, or did not occur in MTI's education program or activity against a person in the United States, MTI must dismiss such allegations for purposes of Title IX but may still address the allegations in any manner MTI deems appropriate under MTI's own code of conduct, which is published in MTI's catalog. MTI may also dismiss a complaint if: the complainant withdraws the complaint; if the respondent is no longer enrolled or employed at MTI; or if circumstances prevent institution from being able to investigate the complaint allegations. In this case, each party needs to be notified that the complaint has been dismissed and the reasons why it has been dismissed.

The time necessary to conduct an investigation will vary based on complexity of the allegation but will generally be completed within sixty (60) days of receipt of the complaint, which includes appeals and informal resolutions, with an allowance for short-term and good cause delays or extensions of the time frame. If a complainant requests confidentiality, MTI will take all reasonable steps to investigate and respond to the complaint consistent with the request. If a complainant insists that their name or other identifiable information not be disclosed to the alleged perpetrator, MTI will inform the complainant that its ability to respond may be limited.

The preponderance of the evidence standard will apply to investigations, meaning MTI will evaluate whether it is more likely than not that the alleged conduct occurred.

During the investigation, MTI will provide interim/protective measures, as necessary, to protect the safety and well-being of students and/or employees involved and are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party and to protect the safety of all parties, MTI's educational environment, or deter sexual harassment.

The Title IX Coordinator will promptly contact the complainant confidentially to discuss the availability of supportive measures; consider the complainant's wishes with respect to supportive measures; inform the complainant of 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. MTI will offer supportive measures, at no cost, to the person alleged to be the victim (referred to as the "complainant"), which may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures to help protect the alleged victim and deter sexual harassment. The respondent is also eligible for the same supportive measures that the complainant has available. MTI will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of MTI to provide the supportive measures. MTI's Title IX Coordinator is responsible for coordinating the effective implementation of all supportive measures that will be provided before sanctions in any grievance procedure are imposed.

MTI will investigate the allegations in any formal complaint and send written notice to both parties (complainants and respondents) of the allegations upon receipt of a formal complaint. The Title IX Coordinator has the responsibility of investigating the complaint allegations; however, if it is in the best interest of the parties involved MTI may choose another employee or hire a third-party to conduct the investigation.

During the grievance process, and when investigating the complaint allegations, MTI will abide by the following procedures:

1. MTI will apply a presumption that the respondent is not responsible during the grievance process (presumption of innocence). The burden of gathering evidence and burden of proof is the responsibility of MTI, not on the individual parties.
2. MTI will provide equal opportunity for the parties involved to present fact and expert witnesses and other inculpatory and exculpatory evidence. Witnesses cannot be anonymous.
3. MTI will not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no “gag orders”) to support their case.
4. Both parties to the complaint will have the same opportunity to select an advisor of the party’s choice who may be, but need not be, an attorney.
5. MTI as a part of the investigative process will send written notice of any investigative interviews, meetings, or hearings to both parties. Any interviews that occur can have both parties’ advisors present.
6. MTI will send the parties, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence provided.
7. MTI will send the parties, and their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond to the report.
8. MTI will dismiss allegations of conduct that do not meet the definition of sexual harassment or did not occur in a school’s educational program or activity against a person in the U.S. Such dismissal is only for Title IX purposes and does not preclude MTI from addressing the conduct in any manner MTI deems appropriate.
9. MTI may, in their discretion, dismiss a formal complaint or allegations therein if the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein, if the respondent is no longer enrolled or employed by MTI, or if specific circumstances prevent MTI from gathering sufficient evidence to reach a determination.
10. MTI will give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.
11. MTI may, in their discretion, consolidate formal complaints where the allegations arise out of the same facts or circumstances, whether it is complaints against multiple respondents or by multiple complainants.
12. MTI will protect the privacy of a party’s medical, psychological, and similar treatment records by stating that MTI cannot access or use such records unless MTI obtains the party’s voluntary, written consent to do so.

### **Live Hearings**

MTI’s Title IX grievance process provides for a live hearing. If the complaint goes to a live hearing, then each party must have an advisor. The appointed Decision-Maker is the individual who will be conducting the hearing. The following conditions will apply for a live hearing:

1. The Decision-Maker(s) must permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those that challenge credibility.
2. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s advisor of choice and never by either the complainant or respondent personally.

3. At the request of either party, MTI will provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.
4. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant.
5. The live hearing provides for the opportunity for all parties' advisors to examine and cross-examine witnesses, including challenging the credibility of witnesses. Hearsay statements and irrelevant information is are not permitted.
6. MTI's process provides for rape shield protections for complainants deeming irrelevant questions and evidence about a complainant's prior sexual behavior unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent.
7. If either party does not have an advisor present at the live hearing, MTI will provide, at no cost to that party, an advisor of MTI's choice who may be, but is not required to be, an attorney to conduct cross- examination on behalf of that party. Only the advisor may cross-examine the witnesses.
8. If a party or witness does not submit to cross-examination at the live hearing, the Decision-Maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
9. Live hearings may be conducted with all parties physically present in the same geographic location or, at MTI's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually.
10. As a part of the process, MTI will create an audio or audiovisual recording, or transcript, of any live hearing, as a part of the record.

### **Final Determination of the Investigation**

MTI's grievance process uses the preponderance of the evidence standard to determine responsibility. MTI's grievance process uses the same standard of evidence for all formal complaints of sexual harassment whether the respondent is a student or an employee (including faculty member). The Decision-Maker(s) in the process are required to objectively evaluate all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a complainant, respondent, or witness.

The Decision-Maker in all instances cannot be the Title IX Coordinator or the investigator in order to ensure that the investigative process is fair and free of bias. The Decision-Maker will issue a written determination regarding responsibility with findings of fact to include the following:

1. Must identify the standard of evidence used based on MTI's written policy.
2. Identify the allegations that constitute sexual harassment.
3. Describe the procedures MTI used from the filing of the formal complaint through the hearing process.

4. Make findings of fact and conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation.
5. Include the imposition of any sanctions or disciplinary actions imposed on the respondent, and whether any remedies will be provided to the complainant.
6. State the procedures to file an appeal and the allowable bases for an individual to appeal the decision.
7. Upon conclusion the written determination will be sent simultaneously to the parties.
8. The Title IX Coordinator is responsible for implementation of any remedies imposed by the Decision-Maker.

### **Appeal Process**

MTI will allow either or both parties the opportunity to appeal the Decision-Maker's determination regarding responsibility from a school's dismissal of a formal complaint or any allegations therein. Either party can appeal based on the following:

1. Procedural irregularity that affected the outcome of the matter;
2. Newly discovered evidence that could affect the outcome of the matter; and/or
3. The Title IX personnel had a conflict of interest or bias, that affected the outcome of the decision.

### **Informal Resolution**

MTI provides the opportunity for the parties involved in the formal complaint allegations to facilitate an informal resolution, such as mediation, so long as both parties give voluntary, informed, written consent to attempt an informal resolution. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. MTI will provide written notice to the parties of the allegations, requirements of the resolution process, and any limitations.

If the complaint allegations are in regard to an employee of MTI sexually harassing a student, the opportunity for an informal resolution is not available.

A School may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment. Similarly, a School may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed.

### **Final Corrective Measures**

If the final decision is that unlawful discrimination or harassment occurred, MTI will initiate corrective action, as appropriate under the circumstances. For employees, the corrective action may range from verbal warnings up to and including termination from employment. For students, the corrective action may range from verbal warnings up to and including expulsion. If the individual found to have engaged in the unlawful discrimination or harassment is not an employee or student of MTI, corrective action within the reasonable control of the College, and as appropriate under the circumstances, will be initiated.

The employee or student who raised the complaint will be advised of the results of the final decision, unless doing so is prohibited by FERPA or other applicable law. Similarly, an employee or student who is accused of the unlawful discrimination or harassment will be advised of the results of the final decision.

## **ADDITIONAL CONSIDERATIONS**

### **Confidentiality**

Consistent with the requirements of this Policy, MTI College shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. This means that MTI will protect the party's privacy consistent with this Policy but may disclose information to those who have a legitimate need to know and in order to process complaints under this policy.

***Please be advised that confidentiality is not absolute.*** Where criminal conduct has occurred, or where the health and/or safety of others in the community may be in danger, it may be necessary for MTI College to take appropriate steps to protect the safety of its students and employees, including the person who has reported the misconduct (see Reporting Requirements below).

***Please also note*** that physicians may keep the confidentiality of statements made to them in their role as medical professionals, but are required by law to report:

1. treatment of an injury sustained during a sexual assault, and
2. suspicion of a sexual assault committed against a person under 18 years of age.

Information shared with other individuals is not legally protected from disclosure. For example, if a report is made to one of the College's Deans, the Dean may need to inform other individuals to protect their safety or rights, in fairness to the persons involved, or in response to legal requirements. In addition, MTI is required by law to report to the police certain information about incidents occurring on campus. Such reports are for statistical purposes only and do not include individual identities (see Clery Reporting below).

Sometimes a student may wish to report an incident of sexual misconduct, domestic violence, dating violence or stalking without pursuing disciplinary or legal action. MTI will seek to respect the wishes of the student when possible, recognizing that the College has a legal obligation to review all reports of sexual misconduct. However, even if a student does not want to proceed, MTI may be legally obligated to proceed, nonetheless. Depending on the circumstances such as the severity of the event, the respective ages and roles of the parties, whether there have been prior complaints against the accused, and right of the accused to be informed of the allegations against him/her, MTI College may determine it is necessary to proceed with a disciplinary response or implement other appropriate remedies. In such cases, the MTI College will notify the Complainant.

Students are urged to keep in mind that reporting acts of sexual violence, dating or domestic violence and stalking can help prevent future similar acts.

### **Conduct That May Appear to Be Consensual May Also Be Unacceptable.**

Sex/gender-based discrimination, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on a person's gender or gender-based characteristics, but not involving conduct of a sexual nature (e.g., the repeated sabotaging of female students' laboratory experiments by male students in the class), may be a form of sex discrimination prohibited by law. While sex/gender-based discrimination may be distinguished from sexual harassment, acts of sex/gender-based discrimination may contribute to the creation of a hostile work or academic environment. Thus, a determination of whether a hostile environment due to sexual harassment exists may take into account acts of sex/gender-based discrimination.

Not all sexual harassment occurs between persons of differing power. Sexual harassment may also occur between peers. In addition, while the majority of reported cases of sexual harassment involve a male harassing a female, sexual harassment may also involve a female harassing a male, or an individual harassing a person of the same gender.

Employees who engage in conduct in violation of this policy are acting outside the scope of their employment responsibilities and, in addition to discipline including termination of their employment, may be subject to individual legal liability and damages for their actions.

### **Reporting Requirements Re Threat of Bodily Harm or Danger to Others**

Victims of sexual misconduct should be aware that school administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to other members of the campus community. MTI will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. MTI reserves the right to notify parents/guardians of dependent students regarding any health or safety risk or a change in student status.

Any allegations or violations of Title IX will be reported to MTI's Clery Act coordinator to be included in MTI's annual reporting requirements (see below).

### **Clery Reporting**

MTI College is required to document all reports of sexual misconduct, including but not limited to domestic and dating violence and stalking, to satisfy the College's obligation to report statistics of crime on campus consistent with the Clery Act. No personally identifiable information about the Complainant will be shared for the purpose of maintaining these statistics. Identities and specific fact patterns will remain anonymous.

### **Intentionally False Reports**

Discriminatory activity and harassment, and particularly sexual harassment or assault, often is not witnessed by others, and reports of such activity cannot always be substantiated by additional evidence. Lack of any such additional evidence should not discourage an individual from reporting any incident in violation of this Policy. However, individuals who make reports that are later found to have been intentionally false or made maliciously, without regard for truth, may be subject to disciplinary proceedings.

### **Truthfulness**

All individuals participating in the complaint process, including but not limited to making an initial report or complaint, are expected to tell the truth in all disciplinary matters. In order to ensure this is possible, individuals participating in student discipline hearings regarding an alleged violation of MTI College's Anti-Harassment and Discrimination Policy will not be charged and held responsible for minor violations of the College's Code of Conduct or other policy.

### **Record Keeping**

All records of the Title IX formal complaint including, the investigation, evidence, decision making process, hearings, and decision letters will be maintained by MTI for at least 7 years.

### **Required Training**

MTI's Title IX Coordinator, Investigator, Decision-Maker, or any person designated by MTI to facilitate an informal resolution process, must not have a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent. Each individual that is part of the Title IX process is required to take training that includes how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Part of the required training is to ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment, the scope of MTI's education program or activity, how to serve impartially, how to make relevancy determinations, how to conduct an investigation and grievance process including hearings, appeals and informal resolution.

MTI College has retained the services of Van Dermeyden Makus to serve in the roles of Investigator and Decision-Maker ("VDM"). MTI College represents and warrants that VDM's Investigators and Decisions-Makers are sufficiently trained on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. MTI College also represents and warrants that VDM's Investigators have been properly trained on issues of relevance to create an investigative report

that fairly summarizes relevant evidence. Any materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

- **Training material for MTI College's Title IX Coordinator can be found here:**  
<https://training.paulmitchell.edu/courses/title-ix-coordinator-training-updated-2020/lessons/title-ix-coordinator-training/topic/training-the-title-ix-coordinator-tutorial/>
- **Title IX Training material for MTI College's Students and additional Title IX Information for Students can be found on:**  
<https://elearning.mticollege.edu/mod/folder/view.php?id=285803>

*A full and complete copy of MTI College's Student and Employee Anti-Harassment and Discrimination Policy (Title IX Policy) can be found on MTI College's website at: <https://mticollege.edu/about/disclosures/>*

### **Additional Information**

Employees and students may contact the Title IX Coordinator with any questions related to this policy. In addition, the U.S. Department of Education Office for Civil Rights ("OCR") investigates complaints of unlawful harassment of students in educational programs or activities. This agency may serve as a neutral fact finder and will attempt to facilitate the voluntary resolution of disputes with the parties. For more information, visit the OCR website at: <http://www2.ed.gov/about/offices/list/ocr/index.html>.

## **COMMON TITLE IX QUESTIONS & ANSWERS**

### **What is Title IX Sexual Assault Prevention?**

Sexual violence, as that term is used, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

### **What is the College's obligation under Title IX Sexual Assault with regard to staff and faculty?**

Staff, faculty, guests and visitors are all covered under Title IX Sexual Misconduct policies. Issues regarding staff, faculty, guests, visitors and other non-students should be reported to the Title IX Coordinator.

### **What are MTI College's basic responsibilities to address student-on-student sexual violence?**

When a school knows or reasonably should know of possible sexual violence, it must take immediate and appropriate steps to investigate or otherwise determine what occurred (subject to the confidentiality provisions). If an investigation reveals that sexual violence created a hostile environment, the school must then take prompt and effective steps reasonably calculated to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

Title IX requires a school to protect the complainant and ensure their safety as necessary, including taking interim steps before the final outcome of any investigation. The school should take these steps promptly once it has notice of a sexual violence allegation and should provide the complainant with periodic updates on the status of the investigation. If the school determines that the sexual violence occurred, the school must continue to take these steps to protect the complainant and ensure their safety, as necessary. The school should also ensure that the complainant is aware of any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to campus or local law enforcement.

If a school delays responding to allegations of sexual violence or responds inappropriately, the school's own inaction may subject the student to a hostile environment. If it does, the school will also be required to remedy the effects of the sexual violence that could reasonably have been prevented had the school responded promptly and appropriately. For example, if a school's ignoring of a student's complaints of sexual assault by a fellow student results in the complaining student having to remain in classes with the other student for several weeks and the complaining student's grades suffer because he or she was unable to concentrate in these classes, the school may need to permit the complaining student to retake the classes without an academic or financial penalty (in addition to any other remedies) in order to address the effects of the sexual violence.

### **What procedures must a school have in place to prevent sexual violence and resolve complaints?**

The Title IX regulations outline three key procedural requirements. Each school must:

1. Disseminate a notice of nondiscrimination
2. Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX
3. Adopt and publish reporting procedures providing for the prompt and equitable resolution of student and employee sex discrimination complaints

### **Can Faculty Serve as a Confidential Recourse?**

In short, NO. Faculty are considered responsible employees who have a duty to report. Accordingly, faculty cannot serve as confidential resources.

### **Does Title IX protect all students from sexual violence?**

Yes. Title IX protects all students at recipient institutions from sex discrimination, including sexual violence. Any student can experience sexual violence: from elementary to professional school students; male, female and non-binary students; straight, gay, lesbian, bisexual and transgender students; part-time and full-time students; students with and without disabilities; and students of different races and national origins.

### **How should a school respond to sexual violence when the alleged perpetrator is not affiliated with the school?**

The appropriate response will differ depending on the level of control the school has over the alleged perpetrator. For example, if a third-party vendor sexually assaults a student on campus, MTI College may not be able to discipline or take other direct action against the third-party vendor. Notwithstanding, MTI College would still be required to conduct an inquiry into what occurred and should report the incident to the appropriate authority and/or the third-party vendor's employer and encourage the employer to take appropriate action to prevent further sexual violence. MTI College would also notify the student of any right to file a complaint with local law enforcement. MTI College may also decide to terminate its contractual relationship with the third-party vendor to ensure that the vendor's employees are no longer invited on campus.

Even though a school's ability to take direct action against a particular perpetrator may be limited, the school must still take steps to provide appropriate remedies for the complainant and, where appropriate, the broader school population. This may include providing support services for the complainant and issuing new policy statements making it clear that the school does not tolerate sexual violence and will respond to any reports about such incidents.

### **Who has specific duty to report or investigate an incident involving sexual assault?**

- Individuals with a Duty to Report:
  - Campus Safety Authorities as per the Jeanne Clery Act
  - Responsible Employees (Title IX)
- Offices with a Duty to Investigate:
  - Human Resources
  - Student Services

### **How do I determine who is a campus safety authority?**

A campus safety authority is a person or offices responsible for campus security: People or offices to which campus policy directs that crimes be reported; Officials with significant responsibility for student and campus activities. This means work that focuses on student activities. The focus is on function, not title. Examples include anyone who has line of responsibility, (Student Services, Human Resources, etc. or anyone with regular contact with students, beyond the classroom).