

Purpose

The purpose of this policy is to comply with the provisions of Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. Sec. 1681, et. seq., which prohibits discrimination on the basis of sex in the course of any federally funded educational program or activity, and to further comply with the Violence Against Women Reauthorization Act of 2013 (“VAWA”) and its attendant Campus SaVE Act provisions (“Campus SaVE”). This policy aims to protect all members of the Montcalm Community College (the “College”) community and its guests from discrimination based on sex, sexual harassment, and sexual violence including dating violence, domestic violence, sexual assault and stalking, with additional attention to such sexual misconduct when targeted at an individual because of his/her national origin, ethnicity, gender identity, gender presentation, or sexual orientation.

Accordingly, this policy on sexual misconduct will articulate the scope of sex discrimination as defined in Title IX, VAWA and the Campus SaVE Act to include discrimination based on sex, sexual harassment, dating violence, domestic violence, sexual assault, stalking and any of the aforementioned acts of discrimination or violence when committed against individuals because of their known or perceived national origin, ethnicity, gender identity, gender presentation, or sexual orientation.

This policy against sexual misconduct will establish a procedure for recourse, resolution and rehabilitation of all complainants of all forms of sexual misconduct, while protecting the due process rights of alleged respondents of sexual misconduct, and for resolving any and all such cases in a prompt and equitable manner.

Scope

This policy covers any case of sex discrimination, sexual harassment, and all forms of sexual violence including dating violence, domestic violence, sexual assault, and stalking, that involves students, guests or employees of the College, while enrolled, employed, or participating in any educational program or activity at the College. This policy also covers any act of discrimination based on sex, to include sexual harassment and all forms of sexual violence listed herein, committed against a member of this community on the additional basis of an individual’s known or perceived national origin, ethnicity, gender identity, gender presentation, or sexual orientation.

To the extent that the College experiences an incident of sexual misconduct on the part of any of the members of groups using any of the College’s premises, or involved with any activity of, or at, the College, the College is committed to the following actions on behalf of all members of its community.

1. To take all necessary steps to protect the safety of its educational programs and activities and all participants therein.
2. To notify the group in question of the alleged incident on the part of any of its members, so as to enable those partners to take appropriate action in accordance with their policies and procedures.
3. To reserve the right to refuse access to its premises, programs or activities in the interim, or on a permanent basis, of any individual complained against, in order to protect the safety of the complainant(s), and that of the College community as a whole.

Policy

In accordance with the provisions of Title IX, VAWA and the Campus SaVE Act, the College prohibits discrimination on the basis of sex in any of its educational programs and activities, to include any programs and activities sponsored by the College, conducted on or off campus, and while en route to such programs and activities, in college-owned, or

college-sponsored transportation. Unlawful discrimination based on sex, sexual harassment and any and all forms of sexual violence as delineated herein by Coordinators, managers, faculty, supervisors, employees, students, advisors, vendors, clientele, is a violation of this policy.

All complaints of sex discrimination, including sexual harassment or sexual violence, dating violence, domestic violence, sexual assault, and stalking, must be brought to the immediate attention of the Title IX Coordinator for the College. The Title IX Coordinator for the College is the Vice President for Administrative Services and may be reached at the Donald C. Burns Administration/Library building on the Sidney Campus, by phone at 989-328-2111, or by email: TitleIXCoordinator@montcalm.edu . In the event of an emergency, or an off-hours situation, local law enforcement should be contacted (911) which in turn will promptly report the incident to the Title IX Coordinator for further action pursuant to the terms of this policy.

All employees are responsible for bringing any such complaints to the direct attention of the Title IX Coordinator. In addition, designated responsible employees, to include deans, directors, advisors, counselors, and all members of Human Resources, and Student & Enrollment Services, have a duty to assist and inform complainants as to the following.

1. The availability of counseling services.
2. The complainant's reporting options, including the option to, or not to, notify law enforcement authorities.
3. The responsible employee's affirmative duty to report the incident to the Title IX Coordinator.
4. The complainant's rights and institutional responsibilities regarding judicial no-contact, restraining and protective orders.

The College has an affirmative duty pursuant to Title IX, VAWA, and the Campus SaVE Act to take immediate and appropriate action once it knows, or reasonably should have known, of any act of sex discrimination, to include sexual harassment and sexual violence including sexual assault, stalking, domestic violence, and dating violence, in any of its educational programs and activities. The College will act on any complaint of sexual misconduct in order to resolve such complaints promptly and equitably. The protective measures the College may follow during and after an investigation include, but are not limited to:

- Access to counseling services and assistance in setting up initial appointments
- Imposition of a campus "No-Contact Order"
- Rescheduling of exams and assignments
- Providing alternative course completion options
- Change in class schedule, including the ability to drop a course without penalty or to transfer sections
- Change in work schedule or job assignment
- Limiting access to certain College facilities or activities pending resolution of the matter
- Voluntary leave of absence
- Providing academic support services, such as tutoring
- College-imposed leave, suspension or separation for the Responding Party
- Any other measure which can be tailored to the involved individuals to achieve the goals of this Policy.

Upon request and within reason, the College will provide complainants with assistance in changing their academic, living, transportation, and working situations regardless of whether they choose to report the crime to local law enforcement.

Complainants who make good faith complaints are protected from retaliation pursuant to Title IX, VAWA and the Campus SaVE Act, this policy, the College's policy against Sexual Harassment, and the College's Whistleblower Policy. Any retaliation against an individual who has complained about sexual harassment or unlawful discrimination or sexual violence, to include sexual assault, stalking, dating violence, or domestic violence, or retaliation against individuals for cooperating with an investigation of a complaint of sexual harassment, sexual violence, or unlawful discrimination, is a violation of this policy.

Persons who violate this policy will be subject to disciplinary action up to and including termination of employment, suspension, expulsions and/or termination of any contractual relationship.

Definitions

Michigan Definitions of Crimes Described in the Violence Against Women Act

- Domestic Violence (includes dating violence) - MCL 750.81
- Aggravated Domestic Violence (includes dating violence) - MCL 750.81a
- Sexual Assault = Criminal Sexual Conduct – MCL 750.520b
- Consent – the definitions of consent are in the Criminal Sexual Conduct statute (see above).
- Stalking - MCL 750.411 h
- Aggravated Stalking - MCL 750.411 i

The definitions above describe the minimum legal standards for conduct, and they set forth terms that help determine criminal liability and legal responsibility. The College has higher expectations. For specific information on the College's procedures for reporting and obtaining assistance in the event of any of the aforementioned manifestations of sexual violence, stalking, domestic violence, or dating violence, please refer to the **Sexual Assault Procedures** in the College's Annual Security Report.

Employee, Faculty and Student Responsibilities

Each employee, faculty member, administrator and student of the College is personally responsible as follows.

1. For ensuring that s/he does not engage in conduct that violates this policy.
2. For bringing any known violations of this policy to the immediate attention of the Title IX Coordinator.
3. For cooperating in any investigation of alleged sexual harassment domestic violence, dating violence, sexual violence, stalking, or unlawful discrimination based on sex, or retaliation, if requested to do so by the person conducting the investigation.

Designated Responsible Employees

Individuals further designated as "responsible employees" at the College are required, when first contacted by a complainant, to inform the complainant of the responsible employee's duty to report any complaint of sexual misconduct directly to the Title IX Coordinator; to inform the complainant of the options for filing complaints with the College, Law Enforcement, or both; to inform the complainant of his/her rights and institutional responsibilities regarding judicial no-contact, restraining and protective orders; and to assist the complainant in obtaining counseling

and medical services where appropriate, particularly if the preservation of evidence could be a concern. Responsible employees include the President, all Vice-Presidents, Deans, Directors, Counselors and Advisors, Student Club Advisors, in addition to any employee from Human Resources, and Student & Enrollment Services.

A report to a responsible employee is a report to the College. It obligates the College to investigate and it obligates the College to take all appropriate steps to address the situation, prevent its recurrence and remedy its effects.

Title IX Grievance Procedure

Anyone who believes that s/he or any other member of the College community has encountered sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, or stalking as prohibited by this policy, whether by a supervisor, a co-worker, faculty member, student, vendor, contractor or any other person with whom s/he comes in contact at the College, in the course of any educational program or activity at the College, should report the incident directly to the Title IX Coordinator for the College. The Title IX Coordinator for the College is the Vice President for Administrative Services and may be reached at the Donald C. Burns Administration/Library building on the Sidney Campus, by phone at 989-328-2111, or by email: TitleIXCoordinator@montcalm.edu . Any person who receives a complaint of sex discrimination, sexual harassment, sexual violence, domestic violence, stalking, or retaliation from an employee or student, or who otherwise knows or has reason to believe that an employee or student has been subjected to any of the aforementioned, is expected to report the incident promptly to the Title IX Coordinator for the College. Designated Responsible Employees are further required to assist the complaining party as outlined in the above paragraph entitled Designated Responsible Employees.

Depending on the facts and circumstances of the specific complaint, including the complainant's wishes, when relevant, the Title IX Coordinator will immediately contact agencies and organizations to effect immediate relief, care, and support for the complainant and/or the victim in any given case including but not limited to:

1. The closest, competent health care facility
2. The Police/Sheriff Department
3. The Employee Assistance Program (EAP)
4. RAVE

Anyone who believes that s/he has encountered sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, or stalking as prohibited by this policy is advised to preserve all evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order.

The Title IX Coordinator will enable a prompt, fair, and impartial investigation into any allegation of sexual misconduct or retaliation, by trained investigators, so as to enable a prompt and equitable response under all circumstances and in a fair and expeditious manner. Investigators will receive annual training on issues relating to his/her role as an investigator and how to conduct hearings in a manner that protects the safety of the complainants and promotes accountability.

The investigation will be completed within 15 days of receipt of the complaint by a trained and designated investigator for the College, unless the timeframe must be extended for good cause by the Title IX Coordinator. The Title IX investigator will allow the parties to present witnesses and other evidence during the investigation. The investigation will continue whether or not the complaint is also being investigated by another agency or law enforcement unless the Title IX investigation would impede law enforcement's investigation. If the investigation is suspended during an investigation by law enforcement, the College will implement interim steps to protect the complainant and/or victim's safety.

As an immediate priority, care will be taken to ensure the safety and well-being of the complainant and/or victim, and to exercise all precautionary measures to prevent a repeat of the alleged incident of sexual misconduct. Accordingly, interim measures, such as a temporary suspension of the alleged offender, may be implemented pending a hearing on the matter.

The Title IX Coordinator will inform the complainant in a case of sexual violence, dating violence, domestic violence, sexual assault or stalking, of the right to file a criminal complaint. In all cases of allegations of sexual harassment or sexual violence between any two parties who are members of the College community, a Title IX hearing will be conducted following the conclusion of any investigation into the matter. Pursuant to a Title IX hearing, both parties will have the right to review all evidence and investigative reports beforehand, to have advisors present, and to present their version of the facts and circumstances surrounding the alleged incident of sexual misconduct. Care will be taken to preserve the rights of complainants of sexual misconduct to privacy without sacrificing the rights of respondents to due process. The Title IX Coordinator will conduct a hearing based on the alleged incident(s) of sexual misconduct and a determination of culpability will rest on the evidence presented and reviewed, using a “preponderance of the evidence” (i.e. more likely than not) standard of proof.

The entire process, from complaint to recommendation for resolution, should be conducted in a prompt and equitable manner, and should be completed no later than 45 days from receipt of a complaint. Extensions may be granted under extenuating circumstances, upon review by the Title IX Coordinator.

Upon completion of the investigation, and a Title IX hearing, the Title IX Coordinator shall notify both complainant and respondent of the findings simultaneously and in writing.

Disciplinary Action

In the event that the investigation reveals that sexual harassment, sexual violence, dating violence, domestic violence, sexual assault, stalking, discrimination based on sex, retaliation or other inappropriate or unprofessional conduct (even if not unlawful) has occurred, the College will act promptly to eliminate the offending conduct and prevent the recurrence and remedy the effects of any sexual misconduct. Such actions may include disciplinary action, such as, but not limited to suspension, expulsion, reprimand, change in work assignment, loss of privileges, mandatory training or suspension, and/or immediate termination.

Confidentiality

In the event that a member of the College community requests complete confidentiality and anonymity about experiencing an act of sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence or stalking, the College will refer that individual to the Victims Coordinator in the Montcalm County Prosecutor’s office or other licensed counseling professionals to whom the legal privilege of confidential communications attaches.

While respecting the request for confidentiality and privacy on the part of the complainant, the Title IX Coordinator or the Responsible Employee to whom the inquiry is made, will also inform the individual of his/her options with respect to reporting the incident and/or lodging a police report, and as to the availability of professional counseling resources. As noted elsewhere, the Responsible Employee has the further duty of reporting the incident directly to the Title IX Coordinator. Depending on the facts and circumstances of the specific complaint, the Title IX Coordinator will immediately contact agencies and organizations to effect immediate relief, care, and support for the complainant and/or the victim in any given case including but not limited to:

1. The closest, competent health care facility

2. The Police/Sheriff Department
3. The Employee Assistance Program (EAP)
4. RAVE

The Title IX Coordinator will further inform the complainant that, to the greatest extent possible, the request for confidentiality, particularly with regard to the identity of the complainant, will be honored. However, the Title IX Coordinator will also be clear that the College makes the ultimate determination as to what should be disclosed regarding the facts and circumstances of the case, in the best interests of the complainant's own future safety, as well as the safety of the College community as a whole. In the event of a formal complaint, all actions taken to investigate and resolve complaints through this procedure shall be conducted with as much privacy, discretion and confidentiality as possible without compromising the thoroughness and fairness of the investigation. All persons involved are to treat the situation with respect. To conduct a thorough investigation, the Investigator(s) may discuss the complaint with witnesses and those persons involved in, or affected by, the complaint, and those persons necessary to assist in the investigation or to implement appropriate disciplinary actions. For purposes of Clery Act reporting and recordkeeping, the complainant's personally identifying information will not be disclosed.

Upon completion of the investigation, the individual(s) who made the complaint and the individual(s) against whom the complaint was made will be advised of the results of the investigation in writing and, where a remedy is determined to be appropriate, the parties will be informed of the steps that will be taken to remedy the situation.

Appeal

Either the Complainant or Respondent may file an appeal of the Title IX Coordinator's decision concerning the resolution of the Title IX investigation to the President. An appeal by either party must be made in writing to the office of the President within 15 days of receipt of the notice of resolution of the matter. The written appeal must state, in detail, the reason(s) for the appeal and shall address one or more of the following:

- If the appeal alleges that the findings of the investigator included relevant factual errors or omitted relevant facts, the appeal shall specify each factual error and/or details of each relevant fact that was omitted from the investigation.
- If the appeal alleges substantive procedural errors, the person appealing shall identify each instance of said substantive procedural error.
- If the appeal alleges relevant or substantive issues or questions concerning interpretation of College policy, the person appealing shall state, in detail, the issues or questions supporting this allegation.
- If the appeal alleges that new information or evidence exists, the appeal shall specify the reason why this information was not available or not provided to the Investigator during the course of the investigation, including the reason why the information could not have been provided on a timely basis.
- If the appeal alleges either that action or inaction of the supervisor in response to the findings of the investigation will not prevent future violations of this policy, the person appealing will specify, in detail, the reason(s) and basis for this allegation.

No disciplinary or other action based upon the original complaint findings shall be taken against the alleged offender during the appeals process, although temporary, interim measures may remain in place. The appeal process will be conducted in an impartial manner by the President, who will meet with the parties involved to review the decision of the Title IX Coordinator. The President's decision shall be final. The Complainant and the Respondent shall be notified of the President's decision simultaneously and in writing.

No Retaliation for Filing a Complaint of Sexual Harassment or Unlawful Discrimination

An institution or a Coordinator, employee, or agent of an institution, may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision described in this policy.

Retaliation against any individual for making a complaint of sexual harassment, discrimination, sexual violence to include dating violence, domestic violence, sexual assault or stalking, or for assisting in the investigation of such a complaint is a violation of this policy and will not be tolerated. Any acts of retaliation will be subject to appropriate disciplinary action, such as but not limited to suspension, expulsion, reprimand, change in work assignment, loss of privileges, mandatory training or suspension and/or immediate termination.

False Accusations

Anyone who knowingly makes a false accusation of discrimination, harassment, or retaliation will be subject to appropriate sanctions which may include, but are not limited to, written warning, demotion, transfer, suspension, dismissal, expulsion or termination.

College Investigators of Complaints of Sexual Harassment and Unlawful Employment Discrimination

The following Investigators are designated as those persons who are charged with coordinating the College's implementation of this policy, and investigating complaints of unlawful discrimination, sexual misconduct, or retaliation for the College. They may be contacted to initiate an investigation under the policy or to answer questions regarding this policy. The College also reserves the right to retain an outside investigator(s) to investigate complaints regarding violations of this policy.

- Vice President for Administrative Services/Title IX Coordinator
- Dean of Student & Enrollment Services
- Director of Human Resources

The Complainant or the Respondent might allege that the investigator has a substantial conflict of interest that might impair his/her ability to conduct a fair and impartial investigation of the allegations. In that event, details supporting the alleged conflict of interest must be submitted, in writing, to the Vice President for Administrative Services within 5 days of receiving notice of the identity of the investigator. A determination will be made about the existence of a conflict of interest and, if such a conflict is found to exist, an alternative investigator will be appointed as expeditiously as possible. In the event that a request is made and an alternate investigator must be appointed, any specific timeline provided for in the complaint procedure shall be suspended pending the determination and/or appointment.

Education and Training

The College is committed to ensuring both preventive and responsive training and relevant educational opportunities for all members of the campus community in the area of sexual misconduct.

Each Fall and Spring semester, the College will offer training on sexual misconduct, including topics such as healthy relationships, issues of consent, options and opportunities for bystander intervention, and the influence of drugs and alcohol on sexual misconduct.

In the area of responsive education and training, the college is committed to ensuring that all College personnel designated as investigators, counselors and adjudicators in the area of sexual misconduct will receive specialized and regular training, and will be cognizant of the special needs of complainants in the area of sexual misconduct, while also ensuring the rights of respondents.

The College has information on its website to address concerns related to sexual misconduct which contain relevant information regarding the College's policies, procedures, information updates and ongoing training opportunities for the campus community with respect to information on the various areas of sexual misconduct, opportunities for community assistance, and the resources available in the event of sexual misconduct.

State and Federal Agencies

In addition to the above, employees who believe that they may have been subjected to sexual harassment or unlawful discrimination may file a formal complaint with government agencies set forth below. Students may file a complaint with the U.S. Department of Education. Using the College's complaint process does not prohibit an employee or student from filing a complaint with these agencies.

United States Equal Employment Opportunity Commission (“EEOC”)

Patrick V. McNamara Building
477 Michigan Avenue
Room 865
Detroit, MI 48226
Phone: 1-800-669-4000

Michigan Department of Civil Rights

Capitol Tower Building
110 W. Michigan Ave., Suite 800
Lansing, MI 48933
Phone: 517-335-3165
Fax: 517-241-0546
TTY: 517-241-1965
Email: MDCR-INFO@michigan.gov

U.S. Department of Education Office of Civil Rights

Office for Civil Rights
Cleveland Office
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115-1812

Telephone: 216-522-4970
FAX: 216-522-2573; TDD: 800-877-8339
Email: OCR.Cleveland@ed.gov