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Title IX Informal Resolution Process Guide

This guide is a supportive document to MCW Policy AD.CC.080 Prohibiting Sex Discrimination and Sex-Based Harassment and all definitions listed within this document are in reference to the policy.

The Informal Resolution process is an alternative to a Formal Grievance and Hearing process by which the Parties reach a mutually agreed upon resolution of an allegation. Informal Resolution is applicable following a report to the Title IX Coordinator by a Mandatory Reporter or Complainant, Notice to MCW of a potential violation of the policy, or a Complaint when both Parties voluntarily agree and provide written consent to resolve the matter through an informal process and the Title IX Coordinator concurs that such process is appropriate. Informal Resolution may also be used when the Respondent accepts responsibility for violating this policy, or when the Title IX Coordinator can resolve the matter informally by providing remedies to resolve the situation. MCW will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution. It is not necessary to pursue Informal Resolution first, in order to pursue the Formal Grievance and Hearing process.

Informal Resolution process may be utilized in place of the Formal Grievance and Hearing process only after both Parties provide voluntary written consent. Either Party may withdraw consent from the Informal Resolution process and resume the Formal Grievance and Hearing process at any time before the Informal Resolution is concluded. The Informal Resolution process can result in agreed upon sanctions to the Respondent and is binding once the process has concluded. Informal Resolution involves a facilitated dialogue process and may include various techniques. MCW, in its sole discretion, may appoint a qualified external individual(s) to facilitate the Informal Resolution. If the matter commenced under the Formal Grievance and Hearing Process with an investigation, the investigator assigned will not be the facilitator of the Informal Resolution process.

Prior to implementing Informal Resolution, the Title IX Coordinator will provide the Parties with notice of the reported misconduct and any potential sanctions or measures that may be discussed as a result of participating in the Informal Resolution process, including information regarding any records that will be maintained or shared by MCW. An agreement will be provided to the Parties to sign indicating their voluntary consent to participate in the Informal Resolution process. The agreement will include a written acknowledgement by all participants that all statements made in Informal Resolution are confidential and cannot be introduced during a Formal Grievance process should the Informal Resolution Process be abandoned prior to an agreement.

Informal Resolution can include three different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing Supportive

Measures (only) to remedy the situation without investigation then the Title IX Coordinator may facilitate Informal Resolution.

- When the Parties agree to resolve the matter through an Informal Resolution mechanism as described below, usually before a formal investigation takes place, however, Informal Resolution can be initiated at any time prior to a conclusion of the Formal Grievance and Hearing process.
- When the Respondent acknowledges responsibility for violating policy and agrees to accept a sanction, thereby concluding the resolution process.

Either Party wishing to initiate an Informal Resolution can contact the Title IX Coordinator. Pursuing Informal Resolution is not a prerequisite for initiating the Formal Grievance and Hearing process.

When the Parties cannot agree on all terms of an Informal Resolution, the Formal Grievance and Hearing process will be initiated or resume at the same point where it was paused.

The Title IX Coordinator may consider the following factors to assess whether an Informal Resolution process is appropriate:

- The Parties' amenability to Informal Resolution;
- Likelihood of potential resolution;
- The Parties' motivation to participate;
- Civility of the Parties;
- Results of a safety and risk analysis;
- History of corrective action or discipline;
- Whether an Emergency Removal is needed;
- Skill of the facilitator with this type of allegation;
- Complaint severity and/or complexity;
- Emotional investment/capability of the Parties;
- Rationality of the Parties;
- Goals of the Parties;
- Power differential existing between the Parties;
- Adequate resources to invest in alternate resolutions (time, staff, etc.)

The ultimate determination of whether the Informal Resolution is available or anticipated to be successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached and provides copies to the Parties. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution are not appealable.

Respondent Accepts Responsibility

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all the alleged misconduct, the resolution processes will be paused.

If the Respondent accepts responsibility, the Title IX Coordinator or designee, such as a facilitator, will evaluate and make a Final Determination that the individual is in violation of MCW's Policy. The Title IX Coordinator then determines appropriate sanction(s) or responsive actions, which are promptly implemented to effectively stop the Sex Discrimination, Sex-Based

Harassment or Retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all the alleged policy violations and the Title IX Coordinator or designee has determined appropriate sanction(s) or responsive actions, which are promptly implemented, the process is over. The Complainant will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the Title IX Coordinator has determined appropriate sanction(s) or responsive actions, which are promptly implemented, for those violations, then the remaining allegations will continue to be investigated and resolved. The Complainant will be informed of this outcome. The Parties are still able to seek Informal Resolution on the remaining allegations, subject to the stipulations above.

Negotiated Resolution

The Title IX Coordinator, with the written consent of the Parties, may negotiate and implement an agreement to resolve the allegations that satisfies all Parties and MCW. MCW will maintain confidentiality over any negotiated resolution, to the extent feasible.

Reference

Please see the MCW Policy AD.CC.080 Prohibiting Sex Discrimination and Sex-Based Harassment policy.

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