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Title IX Resolution Process Guide

The Medical College of Wisconsin (MCW) provides this guide for all Parties to understand and participate in the MCW process for resolution of a Formal Complaint of a Prohibited Offense(s) under Title IX. This guide is a supportive document to MCW Policy AD.CC.080 Prohibiting Sexual Harassment and Abuse in Education Programs and all definitions listed within this document are in reference to the policy. MCW will treat Complainants and Respondents equitably by offering Supportive Measures and by following a resolution process before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against a Respondent. The burden of proof and the burden of gathering evidence rests with MCW. Parties should feel free to pose any questions about this guide to MCW's Title IX Coordinator, Katie Kassulke, by calling 414-955-8668 or emailing TitleIXCoordinator@mcw.edu.

Supportive Measures

Once MCW has Notice of a complaint of a Prohibited Offense(s) in our Education Programs or Activities within our Jurisdiction, MCW's Title IX Coordinator will respond promptly by providing Supportive Measures to the Parties. The Title IX Coordinator will contact the Complainant 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 and provide in writing the process for filing a Formal Complaint either at that time or in the future if they have not done so already.

MCW will implement Supportive Measures to both Parties in a way that does not unreasonably burden the other Party. Supportive Measures are designed to protect the safety of all Parties and the MCW environment, and/or to deter Prohibited Offenses and/or Retaliation from occurring. MCW will maintain the privacy of the Supportive Measures, provided that privacy does not impair MCW's ability to provide the Supportive Measure. MCW will act to ensure as minimal an academic/occupational impact on the Parties as possible.

These actions include, but are not limited to:

- Referral to community-based providers
- Referral to counseling, medical, Employee Assistance Programs and/or healthcare services
- Adjustment to academic assignments, schedule, program, deadlines, or remote learning or working options
- Leave of absence
- Provide safety escorts, advisement, assistance with local law enforcement, monitoring, parking, and other support

- Implementing contact limitations (no contact orders) between Parties
- Timely warnings, Be on the Lookout orders, etc.
- Any other actions deemed appropriate by the Title IX Coordinator

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

Advisors

Each Party has a right to an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The Parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available. MCW will provide an Advisor to a Party upon request. If MCW provides an Advisor, the Advisor may be an internal or external individual who is trained and familiar with the MCW Grievance Process.

Advisors should help the Party prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors will be able to attend meetings, interviews and hearings with the Party, and must be present to conduct cross examination of the other Party and witnesses at a live hearing. MCW expects that the Parties may wish to have MCW share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor. Upon request, MCW will provide a consent form to the Parties to authorize MCW to share such information directly with their Advisor. The Parties must either complete, sign and submit the form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before MCW is able to share records with an Advisor. Advisors are expected to maintain the privacy of the records shared with them.

Advisors must conduct themselves in a respectful manner. Advisors cannot object or argue decisions made during the live hearing by the hearing panel or decision-makers.

All Advisors are subject to the same policies and procedures as the Parties, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address MCW officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the investigator(s) or other decision-maker(s) except during a hearing proceeding, during cross-examination.

The Parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

Cross-examination of the other Party and witnesses is required during the hearing and is conducted by the Advisor. The Parties are not permitted to directly question each other or any witnesses. If a Party's Advisor will not conduct questioning, MCW will appoint an Advisor who will do so regardless of the participation or non-participation of the advised Party in the hearing itself.

Choosing an Advisor who is also a witness in the grievance process creates potential for bias and conflict-of-interest. A Party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing decision-maker(s).

A Party also has the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing. Each Party is expected to inform the Title IX Coordinator of the identity of their Advisor as soon as possible or at least two (2) business days before the date of their first meeting. If a Party changes their Advisor, they are expected to provide timely notice to the Title IX Coordinator.

Emergency Removal

MCW can act to remove a student Respondent entirely or partially from our Education Programs or Activities on an emergency basis following an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. MCW will evaluate whether an Emergency Removal of a student Respondent is necessary by completing a risk analysis using its standard and objective violence risk assessment procedures. The safety and risk analysis may help MCW in determining the following:

- Emergency Removal of a student or a temporary suspension of an employee on the basis of an immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a Formal Complaint absent a willing or able Complainant;
- Identify potential predatory conduct;
- Identify potential grooming behaviors;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to initiate Clery Act Timely Warning/Trespass Order/Persona-non-grata.

If an Emergency Removal is imposed, the student will be given written notice of the action and the option to request to meet with the Title IX Coordinator, applicable school official(s), and/or a member of the Office of Public Safety prior to such action/removal is imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified. The meeting is not a hearing on the merits or the allegation(s), but rather is an administrative process intended to determine solely whether the

Emergency Removal is appropriate. When a meeting is not requested by a Respondent in a timely manner, within two (2) business days, objections to the emergency removal will be deemed waived. Employee Respondents may be immediately removed from the environment and placed on a leave pending resolution at the sole discretion of MCW.

A Respondent may be accompanied by an Advisor of their choice during meetings regarding an Emergency Removal and the show cause meeting. The Respondent will be given access to a written summary of the basis for the Emergency Removal prior to the meeting to allow for adequate preparation.

MCW will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. These actions could include, but are not limited to: restricting a student's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or other activities. Alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the Parties.

Receipt of a Formal Complaint

A Formal Complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a Prohibited Offense(s) occurred, by a Respondent and requesting that MCW investigate the allegation(s). A document filed by the 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 complaint requesting that MCW investigate the allegation(s). If Notice is submitted in a form that does not meet this standard, MCW will contact the Complainant to ensure that it is filed correctly. A third Party cannot file a Formal Complaint on behalf of the Complainant.

Once MCW has Notice of a report of a Prohibited Offense(s) in an Education Program or Activity against a person within the United States and within the Jurisdiction of this policy, we will respond promptly in a fair and equitable manner. MCW will treat both Parties equitably by providing Supportive Measures, follow the MCW's resolution process and where a determination of responsibility for a Prohibited Offense(s) or Retaliation is determined provide remedies to a Complainant.

Dismissals

Once a Formal Complaint has been filed, MCW will review the complaint and determine if there are grounds for a Mandatory Dismissal. A Mandatory Dismissal will occur if the Complainant is not a current or attempted participant in MCW's Education Programs and Activities, conduct alleged in the Formal Complaint would not constitute a Prohibited Offense(s) even if a determination that it occurred as reported, or did not occur in MCW's Education Program or Activities, and/or did not occur within the United States. MCW will provide simultaneous written notice to the Parties and provide the reasons for the Mandatory Dismissal.

If Mandatory Dismissal is required, the Title IX Coordinator will notify the Complainant. If Mandatory Dismissal occurs because the conduct alleged in the Formal Complaint does not meet the definitions of a Prohibited Offense under this policy, the Title IX Coordinator will consider whether other MCW policies may apply and will refer the matter accordingly. Mandatory Dismissal under Title IX is solely a procedural requirement of Title IX and does not limit MCW's authority to address a complaint with another policy, process and remedy. A Party can request reconsideration of a Mandatory Dismissal to the Title IX Coordinator by notifying the Title IX Coordinator within seven (7) calendar days. Reconsideration requests will be granted only based upon discovery of new evidence not described in the Formal Complaint.

If Mandatory Dismissal is not required, the Title IX Coordinator will notify the Parties in writing of the Formal Complaint and offer the Parties a choice of 1) Informal Resolution process; or 2) Formal Grievance process.

Notice to the Parties will include the allegations of a Prohibited Offense(s) with sufficient details known at the time including identities of the involved Parties, date and location of the alleged incident, the Formal Grievance process, the availability of an Informal Resolution process, the ability for each Party to have an Advisor of their choice, and the ability to inspect and review all evidence. MCW will inform each Party that the Respondent is presumed not responsible for the alleged conduct until a determination is made at the conclusion of the Formal Grievance process and that MCW prohibits any Party knowingly making false statements or submitting false information during the Formal Grievance and/or Informal Resolution processes.

Resolution Options

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain confidentiality of the proceedings in accordance with MCW policies. Although there is an expectation of privacy around what investigators share with Parties during the interviews, the Parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the Parties agree not to disclose related to Informal Resolution. MCW encourages Parties to discuss any sharing of information with their Advisors before doing so.

Failure of Parties to abide by the results of the resolution process may result in appropriate responsive/disciplinary actions.

References

Please see the MCW Policy AD.CC.080 Prohibiting Sexual Harassment and Abuse in Education Programs, Title IX Informal Resolution Process and Title IX Formal Grievance Guides for further information.

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