



## 2023 Campus Security Report

### Mission

Mayland Community College promotes individual, community, and economic growth by providing affordable, high quality and easily accessible lifelong learning.

### Vision

To be a dynamic community partner by attracting and retaining both working and retirement age residents by providing exceptional and innovative workforce and entrepreneurial education, broadening cultural opportunities, and advancing the quality of life.

### Notice of Nondiscrimination

Mayland Community College (“MCC”), in compliance with and as required by Title IX of the Education Amendments Act of 1972 and its implementing regulations (“Title IX”) and other civil rights laws, as well as in furtherance of its own values as a higher education institution, does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender, gender identity, gender expression, pregnancy, disability, age, religion, veteran status, or any other characteristic or status protected by applicable local, state, or federal law in admission, treatment, or access to, or employment in, its programs and activities. Please see [www.mayland.edu/titleix](http://www.mayland.edu/titleix) for more information.

Discrimination and harassment are antithetical to the values and standards of the MCC community; are incompatible with the safe, healthy environment that the MCC community expects and deserves and will not be tolerated. MCC is committed to providing programs, activities, and an education and work environment free from discrimination and harassment. MCC is also committed fostering a community that promotes prompt reporting and fair and timely resolution of those behaviors.

Inquiries concerning discrimination or harassment on the basis of sex may be referred to MCC’s Title IX Coordinator:

Michelle Musich, Dean of Students  
Gwaltney Hall, 828-766-1262, [mmusich@mayland.edu](mailto:mmusich@mayland.edu).

Inquiries concerning discrimination or harassment based on a protected characteristic or status other than sex may be referred to:

Michelle Musich, Dean of Students (for students)  
Gwaltney Hall, 828-766-1262, [mmusich@mayland.edu](mailto:mmusich@mayland.edu).

Judy McClure, Director of Human Resources (for employees)  
Gwaltney Hall, 828-766-1272, [jmclclure@mayland.edu](mailto:jmclclure@mayland.edu).

Individuals may also make inquiries regarding discrimination or harassment to the U.S. Department of Education's Office for Civil Rights by contacting the District of Columbia Office, 400 Maryland Avenue, SW, Washington, D.C. 20202-1475; Phone 800-421-3481; email: OCR@ed.gov.

### MCC Main Campus, Spruce Pine, NC

	On-campus Property			Public Property		
	2020	2021	2022	2020	2021	2022
<b>Criminal Offenses</b>						
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
<b>Hate Crimes</b>						
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
Larceny-Theft	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0
Destruction/Damage/Vandalism of Property	0	0	0	0	0	0
<b>Arrests or Disciplinary Referrals</b>						
Weapons: Carrying, Possessing, etc.	0	0	0	0	0	0
Drug Abuse Violations	0	0	0	0	0	0
Liquor Law Violations	0	0	0	0	0	0
<b>Violence Against Women Act (VAWA) Offences</b>						
Domestic Violence	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0
Stalking	0	0	0	0	0	0
<b>Total Unfounded Crimes</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## Avery Learning Center, Newland, NC

	On-campus Property			Public Property		
	2020	2021	2022	2020	2021	2022
<b>Criminal Offenses</b>						
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
<b>Hate Crimes</b>						
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
Larceny-Theft	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0
Destruction/Damage/Vandalism of Property	0	0	0	0	0	0
<b>Arrests or Disciplinary Referrals</b>						
Weapons: Carrying, Possessing, etc.	0	0	0	0	0	0
Drug Abuse Violations	0	0	0	0	0	0
Liquor Law Violations	0	0	0	0	0	0
<b>Violence Against Women Act (VAWA) Offences</b>						
Domestic Violence	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0
Stalking	0	0	0	0	0	0
<b>Total Unfounded Crimes</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## Yancey Learning Center, Burnsville, NC

	On-campus Property			Public Property		
	2020	2021	2022	2020	2021	2022
<b>Criminal Offenses</b>						
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
<b>Hate Crimes</b>						
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
Larceny-Theft	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0
Destruction/Damage/Vandalism of Property	0	0	0	0	0	0
<b>Arrests or Disciplinary Referrals</b>						
Weapons: Carrying, Possessing, etc.	0	0	0	0	0	0
Drug Abuse Violations	0	0	0	0	0	0
Liquor Law Violations	0	0	0	0	0	0
<b>Violence Against Women Act (VAWA) Offences</b>						
Domestic Violence	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0
Stalking	0	0	0	0	0	0
<b>Total Unfounded Crimes</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## Non-campus Property

	On-campus Property			Public Property		
	2020	2021	2022	2020	2021	2022
<b>Criminal Offenses</b>						
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
<b>Hate Crimes</b>						
Murder/Non-negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0
Burglary	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0
Arson	0	0	0	0	0	0
Larceny-Theft	0	0	0	0	0	0
Simple Assault	0	0	0	0	0	0
Intimidation	0	0	0	0	0	0
Destruction/Damage/Vandalism of Property	0	0	0	0	0	0
<b>Arrests or Disciplinary Referrals</b>						
Weapons: Carrying, Possessing, etc.	0	0	0	0	0	0
Drug Abuse Violations	0	0	0	0	0	0
Liquor Law Violations	0	0	0	0	0	0
<b>Violence Against Women Act (VAWA) Offences</b>						
Domestic Violence	0	0	0	0	0	0
Dating Violence	0	0	0	0	0	0
Stalking	0	0	0	0	0	0
<b>Total Unfounded Crimes</b>	0	0	0	0	0	0

- Statistics for all on-campus, public, and non-campus property are collected by campus security officers and combined with statistics provided by local law enforcement agencies.
- MCC does not own or control on-campus student housing facilities.
- In very limited circumstances an institution may remove a report of a crime that has been “unfounded.” Only sworn or commissioned law enforcement personnel may “unfound” a crime.

## Campus Security Reporting Act-Clery Act

### I. POLICY OVERVIEW

The College is committed to providing a safe and secure environment for all members of the College's community and visitors. The College shall comply with the Crime Awareness and Security Act of 1990, as amended by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

### II. DEFINITIONS

A. *Campus Security Authority ("CSA")* is a Clery-specific term that encompasses four groups of individuals and organizations associated with an educational institution:

1. A member of the educational institution's police department or campus security department;
2. Any individual(s) who has responsibility for campus security but who does not constitute a campus police department or a campus security department (e.g., an individual who is responsible for monitoring the entrance into the College's property);
3. Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses. For purposes of this College, this individual is the Dean of Students; and
4. An official or someone who has significant responsibility for student and campus activities, including, but not limited to: student housing, student discipline and campus judicial proceedings. An official is defined as any person who has the authority and the duty to take action or respond to particular issues on the College's behalf.

B. *Clery Act Crimes* are the following crimes that must be reported by Campus Security Authorities to law enforcement and crimes that are listed in the College's Annual Security Report:

1. Murder/non-negligent manslaughter; negligent manslaughter; rape; fondling; incest; statutory rape; domestic and dating violence; stalking; robbery; aggravated assault; burglary; motor vehicle theft; and arson;
2. Hate Crimes: any of the above-mentioned offenses, and any incidents of larceny-theft; simple assault; intimidation; or destruction/damage/ vandalism of property that was motivated by bias on race, religion ethnicity, national origin, gender, sexual orientation, gender identity or disability; and
3. Arrests and referrals for disciplinary action for weapons (carrying, possessing, etc); drug abuse violations and liquor law violations.

C. *College Property* is all the following property:

1. Campus Grounds, Buildings and Structures – Any building or property owned by or controlled by the College within the same reasonably contiguous geographic area and used by the College in direct support of, or in a manner related to, the College’s educational purposes; and any building or property that is within or reasonably contiguous to such buildings or property that is owned by the College but controlled by another person and is frequently used by students and supports College purposes.
2. Off-Campus and Affiliated Property – Any building or property owned or controlled by a student organization that is officially recognized by the College; or any building or property owned or controlled by the College that is used in direct support of, or in relation to, the College’s educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the College.
3. Public Property – All thoroughfares, streets, sidewalks, and parking facilities that are within the campus, or immediately adjacent to and accessible from the campus.

### III. SAFETY AND REPORTING PROCEDURES

The College encourages all members of the College community to report suspicious or criminal activity to law enforcement as soon as possible. Crimes may be reported anonymously. In the event of a crime in progress or at any time there is a risk of harm to persons or property, call 911.

In addition, CSAs have a legal obligation to file a report of suspected criminal activity with law enforcement and with the Dean of Students to ensure statistical inclusion of all Clery Act Crimes in the College’s Annual Security Report when those crimes occur on or near College Property. Any individual identified by the College as a CSA shall receive notification of that designation and the requirement that the individual report information about Clery Act Crimes. Training will also be provided to all so designated persons. While CSAs must report any Clery Act Crime that comes to their attention, at the request of the victim, the victim’s identity may remain anonymous.

To promote safety and security at the College, and in compliance with the Clery Act, the College shall:

- A. Submit crime statistics to the United States Department of Education;
- B. Maintain a daily crime log (open to public inspection);
- C. Issue campus alerts to timely warn the College community when there is information that a Clery Act Crime has occurred that represents a serious or ongoing threat to campus safety;
- D. Issue emergency notifications upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus. The College tests the emergency notification procedure bi-annually.
- E. Publishes and maintains an Annual Security Report containing safety and security related policy statements and statistics of Clery Act Crimes occurring on College Property. To prepare the Annual Security Report, the College collects, classifies and counts crime reports and crime statistics. The Annual Security Report is available on the College’s website and hard copies are available through the Office of Student Services for inspection.

## Emergency Notifications

Mayland Community College encourages students, faculty, staff, visitors, and community members to report all crimes and public safety-related incidents on campus in a timely manner to a MCC Security Officer or the Dean of Students. If the act occurs at the Avery or Yancey Learning Center, please report it to the Dean of that particular center.

Students, faculty, staff, and visitors should take precautions to protect their own safety. Do not attempt to interfere with an incident except to protect personal safety and please try to note distinguishing characteristics of individuals and a description of vehicles involved, including license numbers.

### A. Reporting an Emergency or Crime

To report an emergency dial 911, use the CALL BOX in the parking lot on the main campus and/or contact the following:

#### Campus Security Authorities on Main Campus

Campus Security

828-766-1300

Location: Gwaltney Hall, Front Lobby

Michelle Musich, Dean of Students

828-766-1262

[mmusich@mayland.edu](mailto:mmusich@mayland.edu)

Location: Gwaltney Hall, Student Services

William Ellis, Coordinator of Purchasing, Equipment, and Safety

828-766-1227

[wellis@mayland.edu](mailto:wellis@mayland.edu)

Location: Gwaltney Hall, Business Office

Students at the ALC and YLC should contact the Dean of that campus.

### B. Emergency Notification/Timely Warning

The Mayland Community College Board authorizes the President to develop and implement procedures for the handling of emergency situations that may arise on campus, including when and how to warn the campus community.

In the event that a situation arises, on or off campus, that the President or his designee deems an ongoing or continuing threat, a campus-wide timely warning will be issued. A warning may be issued through campus-wide emails, website announcements and/or ReGroup text messages.

If a situation on the main campus poses an immediate threat to the community, a warning and directives will be disseminated through ReGroup Emergency text messages, and the Lynx Messenger System on the computers of essential personnel. If an immediate notification is necessary at one of the learning centers, a notice will be placed on the front door and individuals will be given directives by the



Dean of that particular center.

#### C. Security Officers

MCC does have a Security Officer on duty during day-time business hours. MCC Security Officers have the authority to ask persons for identification to determine whether individuals have lawful business on Campus. Criminal incidents are referred to local law enforcement agencies. The Security Officers and College Administration maintain a highly professional working relationship with local law enforcement agencies. MCC security officers and local law enforcement agencies communicate regularly on the scene of incidents that occur in and around Campus. There is no written memorandum of understanding between MCC and local law enforcement agencies.

#### D. Anonymous Reporting

Campus professional counselors, when acting as such, are not required to report crimes for inclusion in the annual disclosure of crime statistics. Counselors are encouraged, if and when they deem it appropriate, to inform persons being counseled of the procedures to report crimes on a voluntary confidential basis for inclusion in annual crime statistics.

#### E. Campus Hours and Access

The Main Campus and Learning Centers are open to students, faculty, staff, and visitors during normal business hours. During non-business hours, all campus buildings can only be accessed by key. The Main Campus has a Security Office on duty during day-time business hours who patrols the entire campus. The Main Campus and Learning Centers are equipped with surveillance cameras and the Security Officer and the Director of Facilities Services regularly check to make sure the campus facilities and property are maintained in a manner to help protect the safety of all students, faculty, staff, and visitors. MCC does not have campus residences or student organizations with off-campus locations.

#### F. MCC'S Campus Security Report

This report is required by federal law to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act and contains policy statements and crime statistics for the school. Three years' worth of statistics are included for certain types of crimes that were reported to have occurred on campus, in off-campus buildings or on property owned or controlled by the school, and on public property within or immediately adjacent to the campus. The Dean of Students prepares this report using crime statistics provided by the MCC Security Office, local law enforcement agencies, and College officials. This report is available online at <https://www.mayland.edu/about-mayland/consumer-information/campus-security-report/> or a paper copy may also be requested from Student Services, located on the Main Campus in Gwaltney Hall. Each year, an email notification that provides the web address to access this report is sent to all enrolled students, faculty, and staff. All prospective employees may obtain a copy from the Human Resources Department, also located on the Main Campus, in Gwaltney Hall.

#### G. MCC'S Crime Log

A crime log is maintained at the Main Campus and the Learning Centers. The most recent 60-day period is available for review at each location during normal business hours. Any portion of the log older than

60 days is available within two business days of the request. This information can be obtained from the Coordinator of Purchasing, Equipment, and Safety or the Dean of the Learning Center. The information in the daily crime log includes the nature, date, time, general location, and disposition of each crime. The names of individuals will be withheld, and any information may be withheld, if its release could jeopardize an ongoing investigation.

#### H. Informing the Campus Community

Students are informed about campus security procedures through New Student Orientation and through the annual publication of the MCC Catalog and the Campus Security Report. Employees are informed during New Employee Orientation and in the annual publication of the Campus Security Report. Crime prevention programming is held as needed.

### Weapons on Campus

Students, staff, faculty and visitors are legally prohibited from carrying a weapon onto campus unless a legal exception applies. For purposes of this policy, a "weapon" includes firearms, explosives, BB guns, stun guns, air rifles or pistols, and certain types of knives or other sharp instruments (see N.C.G.S. § 14-269.2).

The prohibition does not apply if the weapon is on campus pursuant to one of the reasons listed in N.C.G.S. § 14-269.2(g). It is the individual's responsibility to know and understand the law prior to bringing any weapon onto campus. Failure to follow the law, regardless of the person's intent, will result in appropriate disciplinary action and a referral to local law enforcement.

It is permissible for an individual to bring a weapon onto campus under the following limited circumstances:

- A. The firearm is a handgun; AND
- B. The individual has a valid concealed handgun permit (or is exempt from the law requiring a permit); AND
- C. The handgun remains in either: a closed compartment or container within the locked vehicle of the permit holder; or a locked container securely affixed to the locked vehicle of the permit holder; AND
- D. The vehicle is unlocked only when the permit holder is entering or exiting the vehicle; AND
- E. The handgun remains in the closed compartment or container at all times except for a reasonable amount of time for the person to transfer the handgun from the closed compartment or container to his person or from his person to the closed compartment or container.

The prohibition does not apply to weapons used as part of a sanctioned school activity or ceremony.

Firearms (and other weapons prohibited on campus) may not be stored or transported in College-owned or rented vehicles.

## Human Resources- Alcohol and Drugs on Campus

The illegal use of controlled substances, substances that cause impairment, and abuse of alcohol are harmful to the health, well-being and safety of the College's employees and students. Employees and students who illegally use controlled substances, substances that cause impairment, or who abuse alcohol are less productive, less reliable and prone to greater absenteeism resulting in unnecessary costs, delays, academic failure and safety risks. The College is committed to maintaining a safe workplace and an educational environment free from the influence of illegal controlled substances, substances that cause impairment, and alcohol.

### I. Prohibited Behavior

All College employees and students are prohibited from unlawfully possessing, using, being under the influence of, manufacturing, dispensing, selling or distributing alcohol, illegal or unauthorized controlled substances or drug paraphernalia. Using or being under the influence of substances that cause impairment is prohibited for all employees and students.

This Policy does not apply to the use of alcohol in instructional situations (e.g., cooking classes, laboratory experiments) or in conjunction with events which meet the requirements of all state laws. This Policy does not apply to the proper use of lawfully prescribed controlled substances by a licensed health-care provider to the student or employee who is prescribed the controlled substance and using it in the manner in which the healthcare provider prescribed it.

### II. Definitions

For purposes of this Policy, the following definitions shall apply:

A. Alcohol means any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor and mixed beverages.

B. Controlled Substance means any substance listed in 21 CFR Part 1308 and other federal regulations, as well as those listed in Article V, Chapter 90 of the North Carolina General Statutes. Generally, the term means any drug which has a high potential for abuse and includes, but is not limited to heroin, marijuana, cocaine, PCP, GHB, methamphetamines, and crack. This term also includes any drugs that are illegal under federal, state or local laws and legal drugs that have been obtained illegally or without a prescription by a licensed healthcare provider or are not intended for human consumption.

C. Substance means any substance taken that may cause impairment, including but not limited to bath salts, inhalants, or synthetic herbs.

D. Conviction means the entry in a court of law or military tribunal of: (1) a plea of guilty, nolo contendere, no contest or the equivalent; (2) a verdict of guilty; or (3) a prayer for judgment continued or a deferred prosecution.

E. Reasonable Suspicion is the legal standard required before the College can require an employee to take a drug or alcohol test. Some of the factors that constitute reasonable suspicion are: a) direct observation of drug use or possession; b) direct observation of the physical symptoms of being under the

influence of drugs; c) impairment of motor functions; d) pattern of abnormal or erratic conduct or behavior; or e) reports from reliable sources or credible sources (anonymous tips may only be considered if they can be independently corroborated).

### III. Duty To Report

Pursuant to Procedures 4.3.3.1 – Arrests and Convictions, all employees who are arrested, indicted, cited or convicted for a criminal offense are required to inform, in writing, his/her supervisor. This includes being arrested or receiving a citation for a violation of any federal or state controlled substance or alcohol statute. If an employee's arrest, conviction or citation has an effect on the employee's ability to perform his/her job duties or brings negative attention to the College, the employee may be subject to disciplinary action in accordance with this Policy.

Convictions of employees working under federal grants that are convicted of violating a federal or state controlled substance or alcohol statute on the College's property, or as part of any activity initiated by the College, shall be reported to the appropriate federal agency. A College official must notify the U.S. government agency, which made the grant, within ten (10) days after receiving notice from the employee or otherwise receives actual notice of a conviction of a controlled substance or alcohol statute occurring in the workplace.

Students employed under the College Work Study Program are considered to be employees of the College if the work is performed for the College in which the student is enrolled. For work performed for a federal, state, local public agency, a private nonprofit or a private for-profit agency, students are considered to be employees of the College unless the agreement between the College and the organization specifies that the organization is considered to be the employer.

### IV. Consequences for Violations

Violation of this Policy will subject students and employees to disciplinary action including, but not limited to: suspension, expulsion, non-renewal or termination of employment or the requirement that the student or employee satisfactorily participate in a drug or alcohol abuse assistance or rehabilitation program at the student or employee's expense and approved by the College and agree to certain conditions.

Article V of Chapter 90 of the North Carolina General Statutes makes it a crime to possess, manufacture, sell or deliver or possess with intent to sell or deliver a controlled substance. N.C.G.S. § 90-95. As citizens, all members of the College community are expected to know and comply with these laws. Legal matters may be referred to local law enforcement. Employees and students who are in violation of alcohol and drug laws may suffer legal consequences ranging from fines up to incarceration. Furthermore, any substance taken that may cause impairment, including but not limited to bath salts, inhalants, or synthetic herbs, is also considered a violation of the drug and alcohol Policy.

### V. Controlled Substances and Alcohol Testing

Upon a conditional offer of employment, new employees may be required to be tested for substances, including controlled substances or alcohol.

Employees may be required to be tested for substances, including controlled substances or alcohol, based on individualized, reasonable suspicion. The required observations for reasonable suspicion testing shall be made by an administrator, supervisor or other trained official and the person who makes the determination that reasonable suspicion exists shall not be the same person who conducts the test. This section does not apply to law enforcement officers serving the College through the local sheriff's department. Law enforcement officers must adhere to their normal standards when conducting a search.

All substances, including controlled substances and alcohol testing, shall be administered by a non-College, third party laboratory chosen by the President. The testing shall be performed at the laboratory. A representative from Human Resources and the employee's immediate supervisor will accompany the employee to the testing site utilizing a College vehicle (if available). The chosen laboratory shall use standard testing protocols that will maintain the confidentiality of the employee and student. All tests shall be reviewed by a medical review officer not affiliated with the College. Employees will have the opportunity to provide any information to the medical center which the employee considers relevant to the test, including identification of currently or recently used prescription or non-prescription drugs. The College shall pay for the initial test. If the employee wishes to dispute the results with a subsequent re-test, the employee shall be responsible for the cost of the re-test.

Pending the results of the testing, (if not instant), the employer can suspend the employee on leave with pay. The College must give the employee written notice of positive results and notice of the right to a re-test (at the employee's expense) pursuant to G.S. 95-232(f). If the results are positive, the supervisor may recommend disciplinary action pursuant to Policy 4.3.4.

#### VI. Post-Accident Testing

In the event of a work-related injury, if the supervisor has reason to suspect that impairment is involved in the accident s/he should report the incident to a representative from the Human Resources Department and the employee may be tested as set forth above.

### Students-Alcohol and Drugs on Campus

The College is committed to providing each of its students a drug and alcohol free environment in which to attend classes and study. From a safety perspective, the users of drugs or alcohol may impair the well-being of students, interfere with the College's educational environment and result in damage to College property.

All students shall adhere to the following:

A. All students are prohibited from unlawfully possessing, using, being under the influence of, manufacturing, dispensing, selling or distributing alcohol, illegal or unauthorized controlled substances or impairing substances at any College location.

1. Controlled Substance means any substance listed in 21 CFR Part 1308 and other federal regulations, as well as those listed in Article V, Chapter 90 of the North Carolina General Statutes. Generally, the term means any drug which has a high potential for abuse and includes, but is not limited to heroin, marijuana, cocaine, PCP, GHB, methamphetamines, and crack. This term also includes any

drugs that are illegal under federal, state or local laws and legal drugs that have been obtained illegally or without a prescription by a licensed healthcare provider or are not intended for human consumption.

2. Alcohol means any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor and mixed beverages.

3. Impairing Substances means any substance taken that may cause impairment, including but not limited to bath salts, inhalants, or synthetic herbs.

4. College Location means in any College building or on any College premises; in any College-owned vehicle or in any other College-approved vehicle used to transport students to and from College or College activities; and off College property at any College-sponsored or College-approved activity, event or function, such as a field trip or athletic event, where students are under the College's jurisdiction.

5. Reasonable Suspicion is the legal standard required before the College can require a student to take a drug or alcohol test. Some of the factors that constitute reasonable suspicion are: a) direct observation of drug use or possession; b) direct observation of the physical symptoms of being under the influence of drugs; c) impairment of motor functions; d) pattern of abnormal or erratic conduct or behavior; or e) reports from reliable sources or credible sources (anonymous tips may only be considered if they can be independently corroborated).

B. Student use of drugs as prescribed by a licensed physician is not a violation of Policy; however, individuals shall be held strictly accountable for their behavior while under the influence of prescribed drugs.

C. Students may be required to be tested for substances, including controlled substances or alcohol, based on individualized, reasonable suspicion. The required observations for reasonable suspicion testing shall be made by an administrator, supervisor or other trained official and the person who makes the determination that reasonable suspicion exists shall not be the same person who conducts the test. This section does not apply to law enforcement officers serving the College through the local sheriff's department. Law enforcement officers must adhere to their normal standards when conducting a search.

D. The College does not differentiate between drug users, drug pushers or sellers. Any student in violation of Section A herein will be subject to disciplinary action up to and including termination or expulsion and referral for prosecution.

E. A student who violates the terms of this Policy will be subject to disciplinary action in accordance with Policy 5.3.2 – Standards of Student Conduct. At his/her discretion, the appropriate Dean/AVP may require any student who violates the terms of this Policy to satisfactorily participate in a drug abuse rehabilitation program or an alcoholic rehabilitation program sponsored by an approved private or governmental institution as a precondition of continued enrollment at the College.

F. Each student is required to inform the College, in writing, within five (5) business days after he/she is convicted for violation of any federal, state, or local criminal drug statute or alcoholic beverage control statute where such violation occurred while on or at a College location. Failure to do so could result in disciplinary action.

G. In addition to this Policy, students employed by the College, including students employed under the College’s Work Study Program, shall adhere to the requirements in Policy 3.4.4 – Alcohol and Drugs on Campus.

*All students will be offered an online drug and alcohol abuse prevention and awareness course through the Safe College on-line learning platform each year, in the Orientation courses required of degree seeking students, and through other educational opportunities offered throughout the year.*

## Campus Evacuation Plan

### I. Purpose

To provide for an orderly evacuation of a College facility during an emergency, the following plan and operating procedures have been adopted.

#### A. Evacuation and Emergency Escape Procedures

In the event of an alarm sounding or other notice of evacuation, all persons including students, faculty, staff and visitors should leave the building by the closest available exit in an orderly manner. Emergency evacuation routes are posted in the facilities.

#### B. Accountability for Students

Faculty/Instructors will take attendance at the beginning of each class so that all persons may be accounted for after an evacuation. The faculty/instructor should evacuate the class and bring the roster to account for all students. It is preferable that doors are closed but not locked, as classrooms are evacuated and the instructor ensures that the classroom is empty. The faculty/instructor should regroup the class at the evacuation site. Any student(s) unaccounted for should be reported to emergency response personnel immediately.

#### C. Accountability for Employees

Supervisors or designees should account for the employees in their immediate work area or department. Any employee(s) unaccounted for should be reported to emergency response personnel immediately. Since supervisors are responsible for accounting for employees, it is imperative that work groups reassemble in the designated evacuation site after evacuation.

#### D. Evacuation Sites

The primary evacuation site should be utilized when possible. However, an alternate site is designated in case the primary site is unsuitable due to smoke/wind conditions or other factors.

Building Name	Primary Evacuation Site	Alternate Evacuation Site
Student Commons #200	Evacuation Zone 3	Evacuation Zone 6
LRC #200	Evacuation Zone 2 or 3	Evacuation Zone 6 or 4
Gwaltney Hall #200	Evacuation Zone 3 or 1	Evacuation Zone 6 or 1
Sam Center #198	Evacuation Zone 3	Evacuation Zone 6
Phillips Annex #196	Evacuation Zone 1	Evacuation Zone 1
Health Science #210	Evacuation Zone 4	Evacuation Zone 2
Mayland Early College #264	Evacuation Zone 2	Evacuation Zone 3 or 4
Public Safety/Horticulture #296	Evacuation Zone 5	Evacuation Zone 2

Welding #317	Evacuation Zone 5	Evacuation Zone 6
CT # 307	Evacuation Zone 6	Evacuation Zone 3

E. Rescue and Medical Duties

Appropriate county emergency response personnel, including fire and rescue department personnel, shall perform rescue and medical duties. College employees are neither trained nor required to perform rescue and medical duties. Nothing in this Policy should be interpreted as restricting employees from providing first aid or rescue assistance on a volunteer basis.

F. Evacuation of Persons with Disabilities

In the event of a building evacuation for buildings with multiple floors, persons with mobility impairment who may be on an upper floor must use their own discretion to determine if using the elevator is more of a risk than waiting for rescue personnel to reach them. If person(s) with mobility impairment cannot access or chose not to access the elevator, they should go to designated area(s) located on each of the upper floors so that emergency personnel can access their location quicker. The locations of all designated areas shall be maintained in an emergency evacuation protocol and be readily available for emergency response personnel.

College faculty and staff cannot be required to lift or carry a person with a mobility impairment. This is not required as it is beyond the Office of Civil Rights’ definition of “minor assistance” and is a “service(s) of a personal nature” which is not required by the American with Disabilities Act. This is not to imply that College employees are prohibited from offering this type of assistance during an emergency. If a person with mobility impairment does not utilize a wheelchair but could benefit from assistance during an evacuation, office or computer lab chairs with rollers are readily available in every building.

The College shall develop an emergency evacuation protocol for persons with disabilities and shall make sure that appropriate College personnel are trained based on the protocol requirements.

G. Fire Drills and Mobility Impaired Individuals

A person with mobility impairment may request advance notification of planned fire drills so that the individual can decide whether evacuation during the drill is advisable or would possibly pose a risk of injury. In this case, mandatory participation is not required for a person with mobility impairment. To request advance notification, the person with a documented mobility disability must notify the Disability Services Coordinator, who will maintain a list of such persons requesting advance notification, once the person has requested the early alert service. The Disability Services Coordinator will notify the persons by telephone, in person, or by e-mail prior to the drill.

**Active Shooter – S-E-L-F**

If you hear shots fired inside or near your building:

The following sequential steps will help protect you and others. The acronym, SELF, follows the order of choices you should make based on your specific location and situation. You will determine which course of action to follow based on the situation.

Survey

Be aware of your surroundings, where you are, and what is available



### Evacuate

This is your first and best choice when possible

Evacuate and run as far away as possible

Help those who need assistance, being aware that helping may place you in greater danger

As soon as you are safe, call 911

If you encounter police, immediately raise your hands over your head with your fingers spread apart and yell we're coming out

### Lock-Down

If you cannot evacuate, this is your next best choice

If you not in a space that can be locked or secured move quickly to a place where you can secure the doors

If available, use the door lock

If not available, use a belt to tie two doors or door hinges together or use a belt or electrical cable to tie around the door handle while pulling the end tight as you stand to the side

In addition to securing the door, barricade the door with desks, chairs, and other objects

Move to an area out of sight

Turn off lights

Close blinds

Silence all cell phones

Be quiet, but call 911 and plan your next action

### Fight-Back

This is the last and least desirable choice

Only confront the aggressor if you are in immediate danger and have no other option

Distracting, disarming, and subduing the aggressor may be your only choice

You can use backpacks, books, water bottles, etc. to throw at the aggressor to distract

If the weapon is separated from the aggressor put any large item, such as a trashcan, over the weapon, keeping the weapon will cause you to be seen by police as the aggressor

If it becomes necessary, it is important that you resist forcefully and however possible

## Sex Offender Information

In accordance with the Campus Sex Crimes Prevention Act of 2000 ("Act"), the College is providing to its campus community a link to the [National Sex Offender Public Website](#) and [North Carolina Sex Offender and Public Protection Registry](#) ("Registry"). The Act requires the College to issue a statement advising the campus community where law enforcement information provided by North Carolina concerning registered sex offenders may be obtained. The Act also requires sex offenders already required to register in North Carolina to provide notice of each institution of higher education in North Carolina at which the person is employed, carries a vocation or is a student. North Carolina law requires sex offenders who have been convicted of certain offenses to register with their county's sheriff. Information about sex offenders is then entered into the Registry database by the sheriff's office and transmitted to the N.C. State Bureau of Investigation. The N.C. State Bureau of Investigation collects information submitted by sheriffs in all one hundred (100) counties in the state and makes it available to the public via the Registry.

If a person is a required to provide notice to MCC, please contact the Dean of Student at 828-766-1262.

Registered sex offenders are prohibited from entering College buildings, or sections of buildings, during times intended for the teaching, use, or supervision of minors. In addition, sex offenders are prohibited from enrolling in a course or course of study that requires attending class with a minor. The President may designate which buildings, sections of buildings, days and times, are intended for the teaching, use or supervision of minors.

MCC has a large number of minors in attendance on the Mitchell Campus, Avery Learning Center, and Yancey Learning Center, in all educational programs. Opportunities where a student will not be in an area with minors or attending class with minors are few, with the exception of online learning options.

Any sex offender enrolled in an online course or program with a need to come to an MCC campus for legitimate business that cannot be completed from a distance must make prior arrangements by phone with the Dean of Students to be present on campus.

### Unlawful Discrimination

Mayland Community College (“MCC”), in compliance with and as required by Title IX of the Education Amendments Act of 1972 and its implementing regulations (“Title IX”) and other civil rights laws, as well as in furtherance of its own values as a higher education institution, does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender, gender identity, gender expression, pregnancy, disability, age, religion, veteran status, or any other characteristic or status protected by applicable local, state, or federal law in admission, treatment, or access to, or employment in, its programs and activities. Please see [www.mayland.edu/titleix](http://www.mayland.edu/titleix) for more information.

Discrimination and harassment are antithetical to the values and standards of the MCC community; are incompatible with the safe, healthy environment that the MCC community expects and deserves and will not be tolerated. MCC is committed to providing programs, activities, and an education and work environment free from discrimination and harassment. MCC is also committed fostering a community that promotes prompt reporting and fair and timely resolution of those behaviors.

Inquiries concerning discrimination or harassment on the basis of sex may be referred to MCC’s Title IX Coordinator:

Michelle Musich, Dean of Students  
[mmusich@mayland.edu](mailto:mmusich@mayland.edu), 828-766-1262, Gwaltney Hall (Student Services)

Inquiries concerning discrimination or harassment based on a protected characteristic or status other than sex may be referred to:

Michelle Musich, Dean of Students (for students)  
[mmusich@mayland.edu](mailto:mmusich@mayland.edu), 828-766-1262, Gwaltney Hall (Student Services)

Judy McClure, Director of Human Resources (for employees)  
[jmclclure@mayland.edu](mailto:jmclclure@mayland.edu), 828-766-1272, Gwaltney Hall (Business Office)

Individuals may also make inquiries regarding discrimination or harassment to the U.S. Department of Education's Office for Civil Rights by contacting the District of Columbia Office, 400 Maryland Avenue, SW, Washington, D.C. 20202-1475; Phone 800-421-3481; email: [OCR@ed.gov](mailto:OCR@ed.gov).

## I. Definitions

For issues regarding sexual harassment and sexual violence or discrimination based on sex or gender, see Procedure 5.3.4.1/3.3.7.1 – Title IX Sexual Harassment Grievance Procedures.

The following definitions shall apply to this Procedure and shall be collectively referred to herein as "Unlawful Discrimination".

The definitions are not intended to operate as speech codes, promote content and viewpoint discrimination or suppress minority viewpoints in the academic setting. Indeed, just because a student's speech or expression is deemed offensive by others does not mean it constitutes discrimination or harassment.

In applying these definitions, College administrators shall view the speech or expression in its context and totality and shall apply the following standard: the alleged victim subjectively views the conduct as discrimination or harassment and that the conduct is objectively severe or pervasive enough that a reasonable person would agree that the conduct is discriminatory or harassing.

A. Discrimination: any act or failure to act that unreasonably differentiates treatment of others based solely on their Protected Status and is sufficiently serious, based on the perspective of a reasonable person, to unreasonably interfere with or limit the ability of that individual to participate in, access or benefit from the College's programs and activities. Discrimination may be intentional or unintentional.

B. Harassment: a type of Discrimination that happens when verbal, physical, electronic or other behavior based on a person's Protected Status interferes with a person's participation in the College's programs and activities and it either creates an environment that a reasonable person would find hostile, intimidating, abusive or where submitting to or rejecting the conduct is used as the basis for decisions that affect the person's participation in the College's programs and activities.

Harassment may include but is not limited to: threatening or intimidating conduct directed at another because of the individual's Protected Status; ethnic slurs, negative stereotypes and hostile acts based on an individual's Protected Status.

C. Protected Status: race, color, national origin, religion, sex, sexual orientation, gender identity or expression, pregnancy, disability, genetic information, age, political affiliation or veterans' status.

D. Standard of Evidence - the College uses the preponderance of the evidence as the standard for proof of whether a violation occurred. In the student due process hearing and employee grievance process, legal terms like "guilt," "innocence" and "burden of proof" are not applicable. Student and employee due process hearings are conducted to take into account the totality of all evidence available from all relevant sources. The College will find the alleged Perpetrator either "responsible" or "not responsible" for violating these Procedures.

## II. Statements of Prohibition

A. Prohibition of Retaliation.

The College strictly prohibits punishing students or employees for asserting their rights to be free from Unlawful Discrimination. Retaliation against any person participating in connection with a complaint of Unlawful Discrimination is strictly prohibited. Reports of retaliation will be addressed through this procedure and/or other applicable College procedures. Retaliation includes, but is not limited to, any form of intimidation, punitive actions from authority figures or peers, reprisals (acts of vengeance) or harassment. Retaliation is a serious violation and should be reported immediately. The College will take appropriate disciplinary action against any employee or student found to have retaliated against another.

B. Prohibition of Providing False Information.

Any individual who knowingly files a false report or complaint, who knowingly provides false information to College officials, or who intentionally misleads College officials involved in the investigation or resolution of a complaint may be subject to disciplinary action including, but not limited to expulsion or employment termination. The College recognizes that an allegation made in good faith will not be considered false when the evidence does not confirm the allegation(s) of Unlawful Discrimination.

III. Reporting Options

A. Student Complaints.

Any student wishing to make a report relating to Unlawful Discrimination may do so by reporting the concern to the Dean of Students by completing a MCC Incident Form at [mayland.edu](http://mayland.edu) or in-person:

Michelle Musich  
Dean of Students/Title IX Coordinator  
Gwaltney Hall  
828-766-1262  
[mmusich@mayland.edu](mailto:mmusich@mayland.edu)

For Unlawful Discrimination incidents between students and employees, the Dean of Students will work in partnership with the Director of Human Resources to investigate and resolve the allegations.

B. Employee Complaints.

Any employee wishing to make a report related to Unlawful Discrimination may do so by reporting the concern in writing to:

Judy McClure  
Director of Human Services/Deputy Title IX Coordinator  
Gwaltney Hall  
828-766-1272  
[jmclure@mayland.edu](mailto:jmclure@mayland.edu)

C. Confidential Reporting.

The College will make reasonable efforts to preserve the Complainant's and Respondent's privacy. Although all reports will be treated with sensitivity, when a report is made, the College may be required to act on it.

There are designated campus professionals (confidential employees) who will keep information confidential by virtue of their professional role and will not reveal any information shared without expressed written consent of the individual, unless required by law.

MCC Confidential Employees are:

Doug Dewar  
Counseling & Disability Services  
Gwaltney Hall  
828-766-1256  
ddewar@mayland.edu

Maria Braswell  
SOAR Personal Counselor  
Gwaltney Hall  
828-766-1261  
mbraswell@mayland.edu

#### IV. Initial Investigation

As these Procedures apply to both students and employees as either the Complainant or the Respondent, the administrator receiving the incident report will determine if the case should be handled by: 1) the Dean of Students or designee (student/student); 2) the Director of Human Resources, or designee (employee/employee); or 3) both (student/employee). For incidents involving students and employees, the College will utilize the process for both the student investigation and the employee investigation sections as applicable.

##### A. Student Investigation.

1. Students filing complaints (“Complainants”) are urged to do so by meeting with the Dean of Students and completing a MCC Incident Form at mayland.edu or in-person as soon as possible after disclosure or discovery of the facts giving rise to the complaint. All complaints submitted will be investigated; however, Complainants should recognize that delays in reporting may significantly impair the ability of College officials to investigate and respond to such complaints.

2. During the investigation process, the Dean of Students may implement temporary measures in order to facilitate an efficient and thorough investigation process as well as to protect the rights of all parties involved. The temporary actions include, but are not limited to: reassignment of class schedules; temporary suspension from campus (but be allowed to complete coursework); or directives that include no contact between the involved parties. Complainants will be notified of available counseling services and their options of changing academic situations and other interim protective measures.

3. The Dean of Students shall fully investigate any complaints and will, as needed, and if the complaint also involves an employee, collaborate with the College’s Director of Human Resources. During the course of the investigation, the Dean of Students may consult with other relevant College administrators and the College Attorney.

4. During the investigation, and if applicable to the complaint, the Dean of Students shall meet with the Complainant and the alleged Perpetrator (“Respondent”) separately and give each

party an equal opportunity to provide evidence, including informing the Dean of Students of any potential witnesses. Both parties will be given access to any information provided by the other in accordance with any federal or state confidentiality laws.

5. The Complainant and the Respondent are allowed to be accompanied by an advisor. The advisor may not present on behalf of either party. If the Complainant or the Respondent chooses to have an advisor who is an attorney, notification must be provided to the Title IX Coordinator at least three (3) College business days prior to the hearing date. In this case, the College Attorney may also be present.

6. A private file regarding the complaint shall be maintained by the Dean of Students. To the extent possible, the College will keep all information relating to the complaint and investigations private; however, to maintain compliance with the Clery Act, both parties will be informed of the outcome of any institutional proceedings under these Procedures.

7. The Dean of Students shall make every effort to conclude the investigation as soon as possible but no later than sixty (60) calendar days absent extenuating circumstances.

#### B. Employee Investigations.

1. Employees filing complaints (“Complainants”) are urged to do so by meeting with the Director of Human Resources and filing a complaint in writing as soon as possible but no later than thirty (30) days after disclosure or discovery of the facts giving rise to the complaint. Complaints submitted after the thirty (30) day period will still be investigated; however, Complainants should recognize that delays in reporting may significantly impair the ability of College officials to investigate and respond to such complaints. The Director of Human Resources shall fully investigate any complaints. During the course of the investigation, the Director of Human Resources may consult with other relevant College administrators and the College Attorney.

2. During the investigation, and if applicable to the complaint, the Director of Human Resources shall meet with the Complainant and the alleged Perpetrator (“Respondent”) separately and give each party an equal opportunity to provide evidence, including informing the Director of Human Resources of any potential witnesses. Both parties will be given access to any information provided by the other in accordance with any federal or state confidentiality laws.

3. During the investigation process, the Director of Human Resources may implement temporary measures in order to facilitate an efficient and thorough investigation process as well as to protect the rights of all parties involved. The Director of Human Resources may suspend an employee with pay pending an investigation if such action is in the College’s best interest.

4. A confidential file regarding the complaint shall be maintained by the Director of Human Resources. To the extent possible, the College will keep all information relating to the complaint and investigations confidential; however, to maintain compliance with the Clery Act, both parties will be informed of the outcome of any institutional proceedings under these Procedures.

5. The Director of Human Resources shall make every effort to conclude the investigation as soon as possible but no later than sixty (60) calendar days absent extenuating circumstances.

6. Complainants will be notified of available counseling services and other interim protective measures.

V. Determination and Appeal

A. Students.

1. After the investigation is complete, the Dean of Students will put forward a determination of finding, based on the Standard of Evidence, and sanction(s) to both the Complainant and Respondent. The Dean of Students will submit to each party a final outcome letter that will include, but is not limited to, the following:

- a. Determination if the Respondent is responsible or not responsible for violating these Procedures;
- b. Sanction(s);
- c. Whether monitoring of academic schedules is needed between the parties to ensure that the individuals involved are not in classes together (the Dean of Students will assist in this process).
- d. Short-term College counseling services available to each party.

2. The Complainant or the Respondent may appeal to the College President. The process is outlined below:

- a. The Complainant and the Respondent have the right to review all evidence, including written statements by the Respondent, the Complainant, or witnesses. Strict rules of evidence do not apply. The Standard of Evidence shall apply.
- b. The President will review the Dean of Students' determination. The President may choose to meet with the Complainant, Respondent, witnesses, and/or Dean of Students if needed for further information. The President may consult with other relevant College administrators and the College Attorney.
- c. The Complainant and the Respondent are allowed to be accompanied by an advisor. The advisor may not present on behalf of either party unless otherwise instructed to do so. If the Complainant or the Respondent chooses to have an advisor who is an attorney, notification must be provided to the College President at least three (3) business days prior to the meeting date. In this case, the College Attorney will also be present.
- d. The College President will submit to each party a final decision letter within ten (10) business days of receiving the appeal or from the last interview, absent extenuating circumstances.

In the case of short term workforce training classes, the student may accrue too many absences during this process to continue the course. The student will be allowed to enroll at no cost in the next available section if found innocent of alleged misconduct.

B. Employees.

1. After the investigation is complete, the Director of Human Resources will put forward a determination of finding, based on the Standard of Evidence, and sanctions to both the Complainant and Respondent. A final outcome letter will be submitted to the Complainant and Respondent that may include, but not limited to, the following:

- a. Determination if the Respondent is responsible, not responsible, or if the decision is deemed inconclusive, or shared responsibility.
- b. Sanction(s), if appropriate.

- c. Monitoring of academic schedules or workplace schedule if needed.
  - d. Short-term counseling services will be offered to each party.
2. The Complainant or Respondent may appeal to the College President. The process is outlined below:
- a. The Complainant and the Respondent have the right to review all evidence, including written statements by the Respondent, the Complainant, or witnesses. Strict rules of evidence do not apply. The Standard of Evidence shall apply.
  - b. The President will review the Director of Human Resources' determination. The President may choose to meet with the Complainant, Respondent, witnesses, and/or Director of Human Resources if needed for further information. The President may consult with the other relevant College administrators and the College Attorney.
  - c. The Complainant and the Respondent are allowed to be accompanied by an advisor. The advisors may not present on behalf of either party unless otherwise instructed to do so. If the Complainant or the Respondent chooses to have an advisor who is an attorney, notification must be provided to the College President at least three (3) business days prior to the meeting date. In this case, the College Attorney may also be present.
  - d. The College President will submit to each party a final decision letter within ten (10) business days of receiving the appeal or from the last review, absent extenuating circumstances.

C. Sanctioning.

The following sanctions are examples of what may be imposed for those who have violated these Procedures.

- 1. Students.
  - a. Verbal or Written Warning
  - b. Probation
  - c. Administrative withdrawal from a course without refund
  - d. Required Counseling
  - e. No Contact Directive
  - f. Suspension
  - g. Expulsion
  - h. Other consequences deemed appropriate
- 2. Employees.
  - a. Verbal or Written Warning
  - b. Performance Improvement Plan
  - c. Required Counseling
  - d. Required Training or Education
  - e. Demotion (President must impose)
  - f. Suspension with or without Pay (President must impose)
  - g. Termination (President must impose)
  - h. Other consequences deemed appropriate to the specific violation

Title IX Sexual Harassment Grievance Procedures



## Important Information for Individuals Who May Be Victims of Sexual Assault, Dating Violence, Domestic Violence, or Stalking

If you or someone you know may have been a victim of the behaviors listed above or any other type of violence, you are strongly encouraged to seek immediate assistance.

Assistance can be obtained 24 hours a day, 7 days a week, from:

Avery County Sheriff's Department  
200 Montezuma Street, Newland NC 28657  
828-733-2071

Mitchell County Sheriff's Department  
63 Crimson Laurel Way, Bakersville, NC 28705  
828-688-2139

Yancey County Sheriff's Department  
4 East Main Street, Burnsville, NC 28714  
828-682-2124

If you are experiencing an emergency, call 911.

During business hours (8:00 a.m. to 5:00 p.m., Monday – Thursday, 8:00 a.m. to 4:00 p.m., Friday), you are also strongly encouraged to contact one of the following individuals:

**Michelle Musich, Dean of Students, Title IX Coordinator**

828-766-1262; [mmusich@mayland.edu](mailto:mmusich@mayland.edu)

Michelle Musich's office is located in Student Services, Gwaltney Hall.

**Judy McClure, Director of Human Resources, Deputy Title IX Coordinator**

828-766-1272, [jmcclure@mayland.edu](mailto:jmcclure@mayland.edu)

Judy McClure's office is located in the Business Office, Gwaltney Hall

For additional information about seeking medical assistance and emotional support, as well as important contact information for local law enforcement agencies, hospitals, and other resources, see [Exhibit A](#) attached to this document.

## Section I. Sex Discrimination and Harassment Policy

### Notice of Nondiscrimination

Mayland Community College ("MCC"), in compliance with and as required by Title IX of the Education Amendments Act of 1972 and its implementing regulations ("Title IX") and other civil rights laws, as well as in furtherance of its own values as a higher education institution, does not discriminate on the basis of race, color, national origin, sex, sexual orientation, gender, gender identity, gender expression, pregnancy, disability, age, religion, veteran status, or any other characteristic or status protected by applicable local, state, or federal law in admission, treatment, or access to, or employment in, its programs and activities.

Discrimination and harassment are antithetical to the values and standards of the MCC community; are incompatible with the safe, healthy environment that the MCC community expects and deserves and will not be tolerated. MCC is committed to providing programs, activities, and an education and work environment free from discrimination and harassment. MCC is also committed fostering a community that promotes prompt reporting and fair and timely resolution of those behaviors.

Inquiries concerning discrimination or harassment on the basis of sex may be referred to MCC's Title IX Coordinator, Michelle Musich, Dean of Students. Exhibit A to this document provides Michelle Musich's contact information.

Inquiries concerning discrimination or harassment based on a protected characteristic or status other than sex may be referred to Michelle Musich, Dean of Students (for students) or Judy McClure, Director of Human Resources (for employees). Exhibit A also provides their contact information.

Individuals may also make inquiries regarding discrimination or harassment to the U.S. Department of Education's Office for Civil Rights by contacting the District of Columbia Office, 400 Maryland Avenue, SW, Washington, D.C. 20202-1475; Phone 800-421-3481; email: [OCR@ed.gov](mailto:OCR@ed.gov).

#### Prohibition on Sex Discrimination and Harassment, Retaliation, and Providing False Information or Interfering with a Grievance Process

This Policy prohibits discrimination and harassment on the basis of sex. MCC strongly encourages the prompt reporting of, and is committed to timely and fair resolution of, complaints of sex discrimination and harassment. .

Sexual Harassment, as defined by Title IX and herein,<sup>1</sup> is a specific type of sex discrimination/harassment that includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking and that MCC addresses using its Title IX Sexual Harassment Grievance Procedures, as required by Title IX.

This Policy also prohibits Retaliation, as defined by Title IX and herein. Complaints alleging Retaliation may be filed with the Title IX Coordinator and, at the discretion of the Title IX Coordinator, may be addressed under MCC's Title IX Sexual Harassment Grievance Procedures or other grievance procedures adopted by MCC.

Additionally, any individual who knowingly files a false Formal Complaint or who interferes with a MCC grievance process may be subject to disciplinary action. Interference with a grievance process may include, but is not limited to, attempting to coerce, compel, or prevent an individual from providing testimony or relevant information; removing, destroying, or altering documentation relevant to an investigation; or providing false or misleading information to MCC officials who are involved in the investigation and/or resolution of a Formal Complaint, or encouraging others to do so.

#### Reporting and Period of Limitations

Any person (whether or not alleged to be the victim) may report sex discrimination or harassment, including Sexual Harassment, in person, by mail, by telephone, or by electronic mail, using the contact information for the Title IX Coordinator listed in Exhibit A, 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).

MCC *strongly encourages* all employees and other members of the MCC community to promptly report

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<sup>1</sup> Capitalized terms used herein are defined in Section 1.0.

concerns regarding suspected or known discrimination/harassment on the basis of sex to the Title IX Coordinator.

In addition to the Title IX Coordinator, MCC has designated the following employees as individuals with the authority to institute corrective measures on behalf of MCC: Director of Human Resources, Deans, Associate Vice President, and Vice President of Instruction. Accordingly, these employees are *required* to report discrimination and harassment on the basis of sex to the Title IX Coordinator.

Additionally, MCC has designated the following employees as confidential resources for students.

Doug Dewar, Director of Counseling & Disability Services  
Gwaltney Hall, 828-766-1256, [ddewar@mayland.edu](mailto:ddewar@mayland.edu)

Maria Braswell, SOAR Personal Counselor  
Gwaltney Hall, 828-766-1261, [mbraswell@mayland.edu](mailto:mbraswell@mayland.edu)

Information about sex discrimination or harassment shared with these confidential resources typically will not be reported to other MCC personnel (including the Title IX Coordinator), to the Respondent, or to others, unless the disclosing individual gives their consent to the disclosure or the law requires it (as may be the case with abuse involving a minor or under conditions involving imminent physical harm, for example). (Confidential resources may report *non-identifying* statistical information to the Title IX Coordinator for recordkeeping and compliance purposes.)

MCC will address allegations of sex discrimination and harassment appropriately no matter the length of time that has passed since the alleged conduct. However, MCC strongly encourages prompt reporting to preserve evidence for a potential legal or disciplinary proceeding. Delay may compromise the ability to investigate, particularly if the individuals involved in the alleged conduct are no longer MCC students or employees.

#### Applicability of Policy and Grievance Procedures

This Policy applies to any allegation of sex discrimination or harassment made by or against a student or an employee of MCC or a third party, regardless of sex, sexual orientation, sexual identity, gender expression, or gender identity.

The Title IX Sexual Harassment Grievance Procedures apply only to allegations of Sexual Harassment in MCC's Education Program or Activity (as defined herein).<sup>2</sup>

MCC will address allegations of other types of sexual harassment (i.e., that do not meet the definition of Title IX Sexual Harassment) by: (1) using other student and employee conduct disciplinary procedures deemed appropriate by the Title IX Coordinator in consultation with other MCC administrators; and/or (2) with Supportive Measures, which are defined and discussed in more detail herein.

#### Rights of Parents

When a student Complainant or Respondent is a minor or has a guardian appointed and their parent or guardian has the legal right to act on the student's behalf, then the parent or guardian may file a Formal Complaint on behalf of the student, although the student would be the "Complainant." In such a situation, the parent or guardian may exercise the rights granted to the student under this Policy, including requesting Supportive Measures and participating in a grievance process. Similarly, the parent or guardian may accompany the student to meetings, interviews, and hearings during a grievance

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<sup>2</sup> And, at the discretion of the Title Coordinator, to related allegations of Retaliation.

process to exercise rights on behalf of the student, while the student's Advisor of choice may be a different person from the parent or guardian. Whether or not a parent or guardian has the legal right to act on behalf of an individual would be determined by state law, court orders, child custody arrangements, or other sources granting legal rights to parents or guardians.

Additionally, FERPA and its implementing regulations address the circumstances under which a parent or guardian is permitted to inspect and review a student's education records. However, in circumstances in which FERPA would not grant a party the opportunity to inspect and review evidence in connection with a grievance process, pursuant to Title IX and its implementing regulations, the student has an opportunity to do so, and a parent or guardian who has a legal right to act on behalf of the student has the same opportunity.

#### Definitions Applicable to Policy and Grievance Procedures

Capitalized terms used herein are defined as follows.

**"Actual Knowledge"** means notice of Sexual Harassment or allegations of Sexual Harassment to MCC's Title IX Coordinator, Director of Human Services, Deans, Associate Vice President or Vice President of Instruction. **"Notice"** as used in this paragraph includes, but is not limited to, a report of Sexual Harassment to the Title IX Coordinator.<sup>3</sup>

**"Clery Act"** refers to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, which is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. § 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.

**"Complainant"** means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment, irrespective of whether a Formal Complaint has been filed.

**"Consent"** is informed, freely and actively given, mutually understandable words or actions that indicate a willingness and readiness to participate in mutually agreed upon sexual activity. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a clear and unambiguous agreement between them to engage in certain conduct with each other. Consent cannot be gained by ignoring or acting in spite of the objections of another.

Consent cannot be inferred from: silence, passivity, or lack of resistance alone; a current or previous dating or sexual relationship alone (or the existence of such a relationship with anyone else); attire; the buying of dinner or the spending of money on a date; or Consent previously given (i.e., Consenting to one sexual act does not imply Consent to another sexual act).

Consent is not effective if it is obtained through the use of physical force, violence, duress, deception, intimidation, coercion, or the threat, expressed or implied, of bodily injury. Whether a party used any of these means to obtain Consent will be determined by reference to the perception of a reasonable person found in the same or similar circumstances.

Consent may never be given by the following individuals: minors, even if the other participant did not know the minor's age; mentally disabled persons, if their disability was reasonably knowable to a person who is not mentally disabled; or persons who are incapacitated. The use of alcohol or drugs does not diminish one's responsibility to obtain Consent and does not excuse conduct that constitutes Sexual

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<sup>3</sup> This standard is not met through imputation of knowledge based solely on vicarious liability or constructive notice. This standard also is not met when the only individual with Actual Knowledge is the Respondent. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report Sexual Harassment, or having been trained to do so, does not qualify an individual as one to whom notice of Sexual Harassment or allegations of Sexual Harassment constitutes Actual Knowledge.

Harassment.

If at any time during a sexual act any confusion or ambiguity is or should reasonably be apparent on the issue of Consent, it is incumbent upon each individual involved in the activity to stop and clarify the other's willingness and readiness to continue and capacity to Consent. Neither party should make assumptions about the other's willingness and readiness to continue.

Please be aware that MCC has students who cannot give consent attending on all campuses, such as minors and persons with disabilities.

**"Day"** means a business day, unless otherwise specified.

**"Education Program or Activity"** means all of MCC's operations and includes (1) locations, events, or circumstances over which MCC exercised substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurred; and (2) any building owned or controlled by a student organization that is officially recognized by MCC.

**"Education Record"** has the meaning assigned to it under FERPA.

**"FERPA"** is the Family Educational Rights and Privacy Act, a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 C.F.R. § 99. FERPA protects the privacy of student Education Records. FERPA grants to eligible students the right to access, inspect, and review Education Records, the right to challenge the content of Education Records, and the right to consent to the disclosure of Education Records.

**"Formal Complaint"** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that MCC 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 MCC's Education Program or Activity. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail by using the contact information listed for the Title IX Coordinator in [Exhibit A](#). As used in this paragraph, 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.

**"Incapacitated"** means lacking the physical and/or mental ability to make informed, rational judgments. A person may be incapacitated for a variety of reasons, including but not limited to being asleep or unconscious, having consumed alcohol or taken drugs, or experiencing blackouts or flashbacks.

**"Respondent"** means an individual who has been reported to be the perpetrator of conduct alleged to constitute Sexual Harassment.

**"Retaliation"** means (1) any adverse action (including direct and indirect intimidation, threats, coercion, discrimination, or harassment (including charges for conduct violations that do not involve sex discrimination or harassment or Sexual Harassment but that arise out of the same facts or circumstances as a report or complaint of sex discrimination or harassment or a report or Formal Complaint of Sexual Harassment) that is (2) threatened or taken against a person (a) for the purpose of interfering with any right or privilege secured by Title IX; or (b) because the person has made a report or Formal Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing related to Title IX.<sup>4</sup>

**"Sexual Harassment"** means conduct on the basis of sex that satisfies one or more of the following: (1) an employee of the MCC conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct. (commonly referred to *quid pro quo* harassment);

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<sup>4</sup> Retaliation does not include (1) the exercise of rights protected under the First Amendment; (2) charging an individual with making a materially false statement in bad faith in the course of a grievance proceeding (provided, however, that a determination regarding responsibility alone is not sufficient to conclude that an individual made a materially false statement in bad faith); or (3) good faith actions lawfully pursued in response to a report of prohibited 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 MCC's Education Program or Activity; or

(3) **Sexual Assault** is any sexual act directed against another person, without the consent of the person, including instances where the person is incapable of giving consent. Sexual Assault can occur between individuals of the same or different sexes and/or genders. Sexual Assault includes the following:

**Rape:** The carnal knowledge of a person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;

**Sodomy:** Oral or anal sexual intercourse with another person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;

**Sexual Assault with an Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of a person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;

**Fondling:** The touching of the private body parts of a person for the purpose of sexual gratification, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;

**Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; and

**Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

**"Dating Violence,"** as defined in 34 U.S.C. § 12291(a)(10): violence committed by a person—(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship;

**"Domestic Violence,"** as defined in 34 U.S.C. § 12291(a)(8): 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; or

**"Stalking,"** as defined in 34 U.S.C. § 12291(a) (30): engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

**"Supportive Measures"** are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant and/or a Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to MCC's Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of

all parties or MCC's educational environment or deter Sexual Harassment.

Supportive Measures may include, but are not limited to, 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, changes in work or housing locations, leaves of absence, increased security, and monitoring of certain areas of the campus. MCC will maintain as confidential any Supportive Measures provided to a Complainant or a Respondent, to the extent that maintaining such confidentiality would not impair MCC's ability to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

## SECTION II. Title IX Sexual Harassment Grievance Procedures

### Applicability, Complaint Intake, and Overarching Provisions

#### 2A.01 Applicability of Grievance Procedures

As noted above, these Grievance Procedures apply to allegations of Sexual Harassment in MCC's Education Program or Activity (and to related Retaliation, at the discretion of the Title IX Coordinator). MCC treats Complainants and Respondents equitably by providing remedies to a Complainant where MCC makes a determination of responsibility for Sexual Harassment against a Respondent under these Grievance Procedures and also by following these Grievance Procedures before imposing any disciplinary sanctions against a Respondent for Sexual Harassment.

#### 2A.02 Obligation to Respond and Initial Outreach to Complainant

When MCC has Actual Knowledge of Sexual Harassment (or allegations thereof) against a person in the United States in its Education Program or Activity, MCC is obligated to respond and to follow Title IX's specific requirements, which are addressed and incorporated in these Grievance Procedures. Promptly upon receiving allegations of Sexual Harassment against a person in the United States in MCC's Education Program or Activity, the Title IX Coordinator will contact the Complainant to discuss the availability of Supportive Measures with or without the filing of a Formal Complaint and to explain to the Complainant the process for filing a Formal Complaint.

#### 2A.03 Filing of a Formal Complaint

As noted in the Definitions section above, a Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that MCC investigate the allegation(s) of Sexual Harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in MCC's Education Program or Activity. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in Exhibit A and the Formal Complaint Form listed in Exhibit B. As used in this paragraph, 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.

When the Title IX Coordinator believes that, with or without the Complainant's desire to participate in a grievance process, a non-deliberately indifferent response to the allegations requires an investigation, the Title IX Coordinator has the discretion to initiate the grievance process by signing a Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party under these Grievance Procedures. Furthermore, initiation of a

Formal Complaint by the Title IX Coordinator is not sufficient alone to imply bias or that the Title IX Coordinator is taking a position adverse to the Respondent. Once a Formal Complaint is initiated, an alleged victim will be referred to as a “Complainant,” and an alleged perpetrator will be referred to as a “Respondent.”

#### 2A.04 Notice of Allegations

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide the Complainant and any known Respondent written notice of these Grievance Procedures and of the allegations of conduct potentially constituting Sexual Harassment, including sufficient details known at the time and with at least five days to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, if known.

The written notice will include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice also will inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and that at appropriate junctures the parties and their advisors may review and inspect evidence collected during the investigation. Additionally, the written notice will inform the parties of MCC’s prohibition on knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, MCC decides to investigate allegations of Sexual Harassment involving the Complainant or Respondent that are not included in the original written notice of allegations, MCC will provide notice of the additional allegations to the parties whose identities are known.

#### 2A.05 Dismissal

MCC will investigate the allegations in a Formal Complaint; however, MCC *will* dismiss a Formal Complaint or a portion of the allegations therein if (1) the conduct alleged in the Formal Complaint, even if substantiated, would not constitute Sexual Harassment; (2) at the time of filing the Formal Complaint the Complainant was not participating in or attempting to participate in MCC’s Education Program or Activity; (3) the conduct alleged in the Formal Complaint did not occur in MCC’s Education Program or Activity; or (4) the conduct alleged in the Formal Complaint did not occur against an individual in the United States. Such a dismissal may take place at the conclusion of the investigation or at any time prior to the conclusion of the investigation.

Additionally, MCC *may* dismiss a Formal Complaint or a portion of the allegations therein if (1) the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; (2) the Respondent is no longer enrolled or employed at MCC; or (3) despite efforts to do so, MCC is unable to gather evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

In the event the Title IX Coordinator determines that dismissal of a Formal Complaint or a portion of the allegations is appropriate, the Title IX Coordinator will promptly notify the parties in writing of the dismissal and the reasons for it. Dismissal does not impair MCC’s ability to proceed with any appropriate investigatory or disciplinary actions under the Sex Discrimination and Harassment Policy or another MCC policy or procedure and/or to provide Supportive Measures to the parties.

Either party may appeal a decision to dismiss a Formal Complaint or a portion of the allegations on the following grounds by submitting a written appeal to the Title IX Coordinator five days of the issuance of the written notice of the dismissal: (1) procedural irregularity that affected the decision to dismiss; (2)



new evidence that was not reasonably available at the time of dismissal and that could affect the outcome of the matter; or (3) the Title IX Coordinator or other participant in the dismissal having a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the decision to dismiss.

The Title IX Coordinator will promptly notify the other party of the appeal, and the non-appealing party may submit a response to the appeal within three days of notification of the appeal.

The Title IX Coordinator will appoint an appeal officer and will contemporaneously share the appeal officer's name and contact information with the Complainant and the Respondent.

Within two days of such appointment, the Complainant, or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias on the part of the appeal officer. The Title IX Coordinator will consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

The Title IX Coordinator will forward the Formal Complaint and any documents upon which the dismissal decision was based, as well as the appeal and any response to the appeal to the appeal officer.

Within seven days of receipt of those materials, the appeal officer will determine whether any of the grounds for appeal warrant overturning or modifying the dismissal. The decision by the appeal officer is final.

#### 2A.06 Advisors

The Complainant and the Respondent may be accompanied to any meeting or proceeding under these Grievance Procedures by the advisor of their choice, who may be, but is not required to be, an attorney. MCC will not limit the choice or presence of the advisor for either the Complainant or the Respondent in any meeting or grievance proceeding. Advisors, however, are not allowed to disrupt any such meeting or proceeding or to speak on behalf of the Complainant or the Respondent, with the exception of cross-examination during any hearing conducted under these Grievance Procedures, which must be conducted by an advisor and never personally by the Complainant or the Respondent.

Parties must provide the name and contact of their advisor to the Title IX Coordinator in writing as soon as reasonably possible and must provide updated information if their advisor changes. All advisors will be required to assent to MCC's Expectations for Advisors.

If a party does not have an advisor present at the hearing, MCC will provide, without any charge to that party, an advisor of MCC's choice who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

Absent accommodation for a disability, the Complainant and the Respondent may not be accompanied by more than one advisor or by other individuals during meetings or proceedings under these Grievance Procedures.

#### 2A.07 Amnesty

MCC considers the reporting and adjudication of Sexual Harassment to be of paramount importance. MCC does not condone underage drinking or the use of illegal drugs; however, MCC may extend amnesty to Complainants, Respondents, witnesses, and others involved in a grievance process from punitive sanctioning for illegal use of drugs and/or alcohol when evidence of such use is discovered or submitted in the course of a grievance process. Similarly, MCC may, in its discretion, provide amnesty for other conduct code violations that are discovered in the course of a grievance process.

#### 2A.08 Timing

MCC will make every reasonable effort to ensure that the investigation and resolution of a Formal Complaint occurs in as timely and efficient a manner as possible. The timelines set forth in these Grievance Procedures are guidelines and may be altered for good cause with written notice to the Complainant and the Respondent of any delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; natural disasters, pandemic restrictions, and similar occurrences; or the need for language assistance or accommodation of disabilities.

MCC will strive to complete its investigation and resolution of a Formal Complaint (not including an appeal, if applicable) within 90 days of the receipt of the Formal Complaint, absent extenuating circumstances. Hearings generally will take place within 20 days of the conclusion of the investigation. Within seven days of the conclusion of the hearing, both the Complainant and the Respondent will receive a final outcome letter.

Either party may request an extension of any deadline by providing the Title IX Coordinator with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Title IX Coordinator will review the request and will make a determination with regard to the request within three days.

#### 2A.09 Written Notice of Meetings

MCC will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.

#### 2A.10 Effect of Corollary Criminal Investigation

MCC's investigation may be delayed temporarily while criminal investigators are gathering evidence. In the event of such a delay, MCC will implement any appropriate Supportive Measures and will evaluate the need for other actions necessary to assist or protect the Complainant, the Respondent, and/or the MCC community.

Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate a matter is determinative of whether Sexual Harassment has occurred in the eyes of MCC.

#### 2A.11 Emergency Removal and Administrative Leave

MCC may remove a Respondent from MCC's Education Program or Activity on an emergency basis, provided that MCC first undertakes an individualized safety and risk analysis, 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, provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal, and does so in accordance with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, as applicable.

Additionally, MCC may place a non-student employee Respondent on administrative leave during the pendency of MCC's response to allegations of Sexual Harassment provided that it does so in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

#### 2A.12 Effect of Respondent Withdrawal, Graduation, or Resignation during Grievance Process

At the discretion of MCC, a Respondent who withdraws or resigns from MCC during the pendency of a grievance process under these Grievance Procedures may be barred from MCC property and MCC activities and events and may be ineligible for re-enrollment or to be re-hired. If a Respondent completes all requirements to graduate during the grievance process, MCC may hold the Respondent's diploma until full resolution of the Formal Complaint.

#### 2A.13 Privacy and Disclosure

Except as may be permitted by FERPA or as required by law or to carry out any investigation or resolution of sex discrimination or harassment allegations, MCC will keep private the identity of any individual who has made a report or complaint of sex discrimination or harassment (including any individual who has made a report or filed a Formal Complaint of Sexual Harassment,), any Complainant, any Respondent, and any witness.

MCC may report alleged Sexual Harassment to local law enforcement if warranted by the nature of the allegations at issue, and MCC administrators will share information regarding alleged Sexual Harassment, as appropriate and necessary, in order to address and resolve the allegation(s) at issue, prevent the recurrence of similar Sexual Harassment, and address the effects of the Sexual Harassment. Additionally, information regarding alleged Sexual Harassment may be used as a statistical, anonymous report for data collection purposes under the Clery Act.

To comply with FERPA, Title IX, and other applicable laws and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, grievance processes carried out under these Grievance Procedures are not open to the general public. Accordingly, documents prepared in connection with such processes; documents, statements, or other information introduced in interviews, meetings, and proceedings; and the final outcome letter may not be disclosed outside of those processes except as may be required or authorized by law.

As permitted by and subject to the limitations of FERPA, MCC reserves the right to notify parent(s) or guardian(s) of a student Respondent of the outcome of any investigation involving that Respondent, redacting names of any other students who do not consent to the disclosure of their information. At the written request of a party, MCC may include a party's advisor on communications and share access to documents, including the investigation report. This access is subject to the advisor's acknowledgment and agreement to maintain the confidentiality of the documents. While MCC strongly encourages parties to maintain privacy in connection with a grievance process, MCC does not prohibit parties from discussing the allegations under investigation or in any way inhibit the parties from gathering or presenting relevant evidence. In addition, MCC's policy does not prohibit disclosure of the final outcome letter by either the Complainant or the Respondent.

#### 2A.14 Conflicts of Interest, Bias, and Training

MCC will ensure that any individual designated by MCC as a Title IX Coordinator, investigator, decision-maker, or informal resolution facilitator under these Grievance Procedures does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

If any employee designated to participate in the investigation or resolution of a Formal Complaint is the Respondent or a relevant witness, then the Title IX Coordinator will appoint another employee to perform their duties. (If the Title IX Coordinator is the Respondent, then the President will appoint another employee to perform their duties.)

MCC also ensures that Title IX Coordinators, investigators, decision-makers, advisors, and informal resolution facilitators receive training, as applicable, on the definition of Sexual Harassment; the scope

of MCC's Education Program or Activity; how to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

MCC further ensures that decision-makers receive training 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, and that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Additionally, MCC ensures that decision-makers receive training on any technology to be used at live hearings.

Materials used to train Title IX Coordinators, investigators, decision-makers, advisors, and informal resolution facilitators will not rely on sex stereotypes and promote impartial investigations and adjudications of Formal Complaints of Sexual Harassment.

#### 2A.15 Burden of Proof

At all times, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on MCC, not on either of the parties.

#### 2A.16 Presumption of No Responsibility until Determination

Respondents are presumed to be not responsible for alleged Sexual Harassment until MCC makes a determination regarding responsibility pursuant to these Grievance Procedures.

#### 2A.17 Objective Evaluation of All Relevant Evidence; Credibility Determinations

The investigators and decision-makers under these Grievance Procedures will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and will not make any credibility determinations based on a person's status as a Complainant, Respondent, or witness.

#### 2A.18 Academic Freedom

MCC affirms its commitment to academic freedom but notes that academic freedom does not allow any form of Sexual Harassment. MCC recognizes that an essential function of education is a probing of opinions and an exploration of ideas, some of which, because they are controversial, may cause students and others discomfort. This discomfort, as a product of free academic inquiry within a faculty member's area(s) of expertise, shall in no way be considered or construed to constitute Sexual Harassment. Academic inquiry may involve teaching, research and extramural speech. Furthermore, nothing in this document shall be interpreted to prohibit bona fide academic requirements for a specific MCC program or activity. When investigating complaints that a party or the Title IX Coordinator believes may involve issues of academic freedom, the Title IX Coordinator will consult with the Vice President of Instruction with respect to contemporary academic practices and standards.

#### 2A.19 Documentation

MCC will retain documentation (including but not limited to any Formal Complaint, notifications, recording or transcripts of interviews, investigative report, written findings of fact, petitions for appeal, notifications of decisions (including the final outcome letter), audio recordings of hearings, and written communication with the Complainant and Respondent), for no less than seven years.

## 2A.20 Consolidation of Formal Complaints

MCC may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, by more than one Complainant against one or more Respondents, or by one party against the other party where the allegations of Sexual Harassment arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in these Grievance Procedures to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

## 2A.21 Individuals with Disabilities

MCC will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in MCC’s grievance processes. Student requests for accommodation must be made to the Dean of Students/Title IX Coordinator. All other requests for accommodation must be made to Director of Human Resources. These individual may consult with the Disability Officer.

## The Investigation

### 2B.01 Appointment of Investigators and Challenging of the Same

Unless a Formal Complaint is dismissed or the parties elect to participate in informal resolution, the Title IX Coordinator will promptly appoint one or more investigators. These investigators may be MCC employees, non-employees, or a combination of the two. The Title IX Coordinator will contemporaneously share their names and contact information with the Complainant and Respondent and also will forward a copy of the Formal Complaint to the investigators. Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of the assigned investigators. The Title IX Coordinator will consider such statements and will promptly assign different investigators if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

### 2B.02 The Investigators’ Activities

Upon receipt of the Formal Complaint, the investigators will promptly begin their investigation, taking such steps as interviewing the Complainant, the Respondent, and witnesses (including expert witnesses, where applicable); summarizing such interviews in writing; collecting and reviewing relevant documents; visiting, inspecting, and taking or reviewing photographs of relevant sites; and collecting and reviewing other relevant evidence.

### 2B.03 The Investigative Report and Evidence Review

The investigators will prepare a written investigative report that fairly summarizes relevant evidence and includes items such as the Formal Complaint, written statements of position, summaries or transcripts of all interviews conducted, photographs, descriptions of relevant evidence, and summaries or copies of relevant electronic records.

Prior to the completion of the investigative report, the investigators will send to each party and the party’s advisor, if any, an electronic or hard copy of any evidence obtained during the investigation that is directly related to the allegations raised in the Formal Complaint, including (1) any evidence upon

which MCC does not intend to rely in reaching a determination regarding responsibility; and (2) both inculpatory and exculpatory evidence.

The parties have ten days from the time that the evidence is provided to submit to the investigators a written response to the evidence. In the response, the parties may address the relevancy of any evidence that the parties believe should be included in or excluded from the investigative report and may also address any further investigation activities or questions that they believe are necessary. If a party wishes to submit additional evidence at this stage, they should explain how the evidence is relevant and why it was not previously provided.

The investigators will review and consider the parties' written submissions and may conduct additional investigative activities as appropriate prior to finalizing the investigative report. The need for additional investigative activities may result in a delay or extension to the timelines set forth in these Grievance Procedures.

At least ten days prior to the hearing, the investigators will send an electronic or hard copy of the investigative report to each party and the party's advisor, if any. Any response a party wishes to make to the investigative report may be included in that party's pre-hearing statement, which is discussed more below in Section 2C.05.

Due to the sensitive nature of the investigative report, neither the parties nor their advisors may copy, publish, photograph, print, image, record or in any other manner duplicate the report. Parties who violate these restrictions may be disciplined, and advisors who violate these restrictions may be disciplined and/or be barred from further participation in the grievance process.

Nothing in this document restricts the ability of either party to discuss the allegations under investigation or to gather, preserve, and/or present relevant evidence.

#### 2B.04 Submission of Evidence; Expert Witnesses

Any evidence that the parties wish for the hearing officer to consider should be presented to the investigators as early as possible during the investigation process. Evidence that is not submitted in a timely manner and prior to finalization of the investigative report may be excluded from the hearing at the discretion of the hearing officer.

Similarly, all relevant witnesses should be identified to the investigators as early as possible during the investigation. The hearing officer generally will not call or consider written statements from witnesses who were not identified to investigators and interviewed during the investigation. However, in their discretion and for good cause, the hearing officer may choose to consider information from witnesses who were not interviewed during the investigation.

Any party who wishes to present testimony from an expert witness should identify that witness by providing the witness's name, contact information and a summary of (1) the witness's qualifications to offer expert testimony; and (2) any opinions the witness expects to offer related to the allegations or evidence. Any evidence upon which the witness relies must be provided to the investigators and will be made available to the other party and their advisor, as well as to any expert witness the other party has identified. This information must be provided as early as possible in the investigation and in no event later than finalization of the investigative report. The parties must make any expert witnesses available to be interviewed by investigators and to testify at the hearing. If an expert witness is not available to provide live testimony at the hearing, the hearing officer must disregard any information submitted by that expert.

#### 2B.05 Treatment Records

MCC will not access, consider, disclose, or otherwise use in a grievance process any party's treatment

records that are maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in their professional/paraprofessional capacity unless the party provides voluntary, written consent.

## Hearing and Appeals

### 2C.01 Respondent's Acknowledgement of Responsibility

If, at any time prior to a responsibility determination by the hearing officer, a Respondent accepts responsibility for the allegations, and if the Title IX Coordinator determines that the matter is appropriate for informal resolution, the Title IX Coordinator will ask both parties if they wish to suspend the formal resolution process and engage in an informal resolution process to resolve the allegations without a hearing.

If both parties wish to engage in the informal resolution process, the Title IX Coordinator will propose sanction(s) for the Respondent. If the Complainant and the Respondent agree in writing to such proposed sanctions(s), then the Formal Complaint will be resolved without a hearing and without any further rights of appeal by any party.

If either the Complainant or the Respondent objects to such proposed sanction(s), then the hearing officer will determine sanctions, which are subject to appeal as set forth below.

### 2C.02 The Formal Resolution Process

Unless a Formal Complaint is dismissed or the parties elect to participate in informal resolution pursuant to section 2.D.01 below, following the investigation the appointed hearing officer will conduct a hearing in which they may question the Complainant, the Respondent, and any witnesses whose testimony the hearing officer deems relevant. During the hearing, the hearing officer and the parties may also question the investigators as necessary to clarify information provided in the investigative report.

### 2C.03 Appointment of the Hearing Officer and Challenging of the Same

The Title IX Coordinator will appoint a hearing officer, who will administer the hearing, serve as the decision-maker regarding responsibility, and (as applicable) recommend sanctions. The hearing officer may be a MCC employee or non-employee. The Title IX Coordinator will contemporaneously share the hearing officer's name and contact information with the Complainant and the Respondent. The Title IX Coordinator will provide to the hearing officer the Formal Complaint, all evidence directly related to the allegations, the parties' written responses to the evidence, and the investigative report.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing any alleged conflicts of interest or bias on the part of the hearing officer. The Title IX Coordinator will carefully consider such statements and will promptly assign a different hearing officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

### 2C.04 Notice of the Hearing

Promptly after the appointment of the hearing officer and no less than seven days prior to the hearing, the hearing officer will provide concurrent written notice to the Complainant and the Respondent setting forth the date, time, and location of the hearing. Any modifications to the hearing date, time, or location will be provided in writing to both parties prior to the date of the hearing.

## 2C.05 Pre-Hearing Submissions

Each party may submit a written statement to the hearing officer that includes any response the party wishes to make to the investigative report. Each party's pre-hearing statement must be submitted at least five days prior to the hearing. The hearing officer will share the statement with the other party, who may submit a response within two days.

## 2C.06 Failure to Appear

If any party, advisor, or witness fails to appear at the hearing after having been provided proper notice of the hearing as set forth above, then absent extenuating circumstances the hearing officer will proceed with the hearing and issuance of their responsibility determination and, as applicable, sanction recommendation. MCC will provide an advisor to any party who attends the hearing unaccompanied.

## 2C.07 No Contact Outside of the Hearing

## 2C.08 Evidentiary Matters

A Title IX hearing does not take place within a court of law and is not bound by formal rules of evidence. Evidence of and questions about the Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted at the hearing, with the following exceptions: (1) if the questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or (2) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.

Evidence regarding the past sexual activity of the Respondent (regardless of whether the Respondent was formally investigated or found responsible for such conduct) may be permitted to show that the Respondent has engaged in a pattern of behavior similar to the alleged Sexual Harassment at issue before the hearing officer, provided that the Respondent has not been found "not responsible" by MCC in a proceeding related to such conduct.

MCC will not access, consider, disclose, or otherwise use in a grievance process any party's treatment records that are maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in their professional/paraprofessional capacity unless the party provides voluntary, written consent. Questions and/or evidence that constitute or seek disclosure of information protected under a legally recognized privilege are not permitted, unless the person holding the privilege has waived the privilege in writing.

MCC will make the evidence that the investigators provided to the parties for their review and inspection prior to finalization of the investigative report available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

## 2C.09 Conduct of the Hearing and Questioning of Witnesses and Parties

The hearing will be conducted with parties in separate rooms, using technology to ensure that each party can see and hear any party or witness answering questions. At the discretion of the hearing officer, the hearing may be conducted partially or entirely remotely, with any or all participants participating virtually.

The Complainant and the Respondent will have equal opportunity to address the hearing officer, if



desired, and both the hearing officer and the parties' advisors will have the opportunity to question the other party and any witnesses, including investigators and expert witnesses. The hearing officer will first ask any questions of each party and each witness through direct examination. After the hearing officer has completed direct examination, the advisor for each party will have an opportunity to conduct a cross-examination of the other party and/or the witnesses. Any questions that a party has for a witness or the other party must be posed by the party's advisor. A party's advisor will not have the opportunity to question the party for whom they serve as advisor.

Before a party or witness answers a cross-examination question, the hearing officer will determine whether the question is relevant and allowed under these Grievance Procedures. For example, the hearing officer may exclude as not relevant duplicative questions or questions posed solely to harass a witness or the other party. The hearing officer will explain any decision to exclude a question.

If a party does not have an advisor present at the hearing, MCC will provide an advisor, at no cost to the party, to conduct cross-examination on behalf of that party.

Members of the MCC community are expected to provide truthful testimony, and any member of the MCC community who knowingly provides false information during this process is subject to discipline.

#### 2C.10 Unavailability or Refusal to Testify or Submit to Cross-Examination

The Respondent and/or the Complainant may choose not to testify at the hearing; however, the exercise of that option will not preclude the hearing officer from making their responsibility determination and, as applicable, sanction recommendation regarding the Formal Complaint. Also, if a party or witness does not submit to cross-examination at the hearing, the hearing officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility or, as applicable, recommendation regarding sanctions. The hearing officer will not draw an inference regarding responsibility or sanctions based solely on a party's or witness' absence from the hearing or refusal to testify or submit to cross-examination.

#### 2C.11 Recording

MCC will record the hearing. This recording will be the only recording permitted of the proceedings and will be the property of MCC. The parties and the appeal officer may use the recording as part of the appeal process. Reasonable care will be taken to ensure a quality recording; however, technological problems that result in no recording or in an inaudible one will not affect the validity of the outcome of a hearing.

#### 2C.12 The Determination of the Hearing Officer Regarding Responsibility

Following the hearing, the hearing officer will determine whether the evidence establishes that it is more likely than not<sup>5</sup> that the Respondent committed Sexual Harassment. The hearing officer will render a finding of "Responsible" or "Not Responsible" and will provide the rationale for the decision. If the Respondent is found "Responsible," the hearing officer will specify the specific type(s) of Sexual Harassment for which the Respondent is found "Responsible" (for example, Sexual Assault, Stalking, etc.). When feasible, the hearing officer will orally communicate the finding of "Responsible" or "Not Responsible" to the parties on the day of or day following the hearing. Additional information regarding the decision, including the rationale and sanctions (if applicable) will be communicated in the final outcome letter (as described below).

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<sup>5</sup> In other words, the standard of proof will be the preponderance of the evidence standard.

### 2C.13 The Recommendation of the Hearing Officer Regarding Sanctions

If the hearing officer determines that the Respondent is “Responsible,” they will recommend appropriate sanctions to be imposed on the Respondent.

Sanctions following a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline, or both. Sanctions for employees may include, but are not limited to, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, and compensation adjustments.

Sanctions for students may include, but are not limited to, expulsion or suspension from MCC, disciplinary probation, social restrictions, expulsion or suspension from campus housing, suspension or revocation of admission, suspension or revocation of degree

Other potential sanctions for Respondents may include, but are not limited to, written warning, mandated counseling, completion of an intervention program, completion of violence risk assessment, parental notification, and/or education sanctions (such as community service, reflection paper(s), and/or fines) as deemed appropriate by the hearing officer.

In recommending sanctions, the hearing officer will consider whether a sanction will ring an end to, prevent a recurrence of, and remedy the effects of the Sexual Harassment. The hearing officer also will consider the impact of separating a student from their education. The appropriate sanctions for Sexual Assault generally will include at a minimum a period of separation from MCC.

### 2C.14 Review of Sanctions

The hearing officer will forward their sanctions recommendation to the Title IX Coordinator, who will share it with the Director of Human Resources (in cases involving faculty and staff). These individuals will consider the recommendation in the context of the sanctioning guidelines, the Respondent’s disciplinary history, and the institution’s handling of similar cases, and other relevant factors.

### 2C.15 Implementation of Sanctions

Sanctions generally are effective immediately upon issuance of the final outcome letter described below. However, if necessary to protect the welfare of the Complainant, Respondent, or MCC community, the hearing officer may recommend and/or the Title IX Coordinator may determine that any sanctions are effective at any time after the conclusion of the hearing and continue in effect until the issuance of the final outcome letter.

### 2C.16 Final Outcome Letter

Within seven days after the hearing, the hearing officer will issue a final outcome letter through the Title IX Coordinator to the Respondent and Complainant simultaneously.

The final outcome letter will (1) name the Respondent; (2) identify the allegations potentially constituting Sexual Harassment; (3) describe procedural steps taken from the filing of the Formal Complainant through the determination; (4) provide findings of fact in support of the hearing officer’s determination; and (5) provide a statement of rationale for the result as to each allegation, including the responsibility determination and any sanctions.

### 2C.17 Appeals

The Complainant or the Respondent may appeal the decision of the hearing officer regarding responsibility and/or the sanction(s) imposed on the Respondent.

The following are the only permissible grounds for an appeal of the hearing officer's responsibility determination: (1) procedural irregularity that affected the outcome; (2) new evidence that was not reasonably available at the time of the determination and that could affect the outcome; and (3) the Title IX Coordinator, an investigator, or the hearing officer had a conflict of interest or bias that affected the outcome.

Sanctions may only be appealed on the ground that the severity is incommensurate to the gravity of the Sexual Harassment for which the Respondent was found responsible.

Appeals must be submitted in writing to the Title IX Coordinator within five days from the date of the final outcome letter. The Title IX Coordinator will promptly inform the other party of the filing of the appeal. The other party will have three days from such notification to submit a written response to the appeal.

#### 2C.18 Appointment of the Appeal Officer and Challenging of the Same

Upon receipt of an appeal, the Title IX Coordinator, in consultation with the \_College President will appoint an appeal officer.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias posed by assigning that appeal officer. The Title IX Coordinator will carefully consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

#### 2C.19 Appellate Review

The Title IX Coordinator will share the Formal Complaint, the investigative report, the hearing recording, all statements introduced at the hearing, any other evidence considered by the hearing officer, the hearing officer's written findings, and the written appeal submissions with the appeal officer. In addition, if an appeal raises procedural issues, the Title IX Coordinator may provide the appeal officer additional information relevant to those issues.

Within ten days of the receipt of the appeal the appeal officer will determine (a) that the decision of the hearing officer should stand; or (b) that the decision of the hearing officer should be overturned and will issue a written explanation of that result and the rationale behind it.

In the event that the appeal officer determines that the decision of the hearing officer should be overturned, the appeal officer will specify, after consultation with the Title IX Coordinator and other MCC administrators as necessary, the appropriate steps to be taken to come to a final resolution of the Formal Complaint (which may include another hearing before the same hearing officer or a different one).

#### Informal Resolution

##### 2D.01 Determination of Formal versus Informal Resolution

At any time before the issuance of the hearing officer's responsibility determination, the parties may elect to resolve the Formal Complaint through the informal resolution process, provided that (1) the parties both voluntarily consent in writing to such resolution; (2) both parties are students or employees of MCC; and (3) the Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving that specific Formal Complaint. Otherwise, a Formal Complaint that is not

dismissed will proceed to a hearing. Informal resolution is not an appropriate mechanism for resolving a Formal Complaint by a student against an employee.

Informal resolution may not be selected for less than all of the misconduct alleged in the Formal Complaint. If the parties agree to informal resolution (and informal resolution is appropriate for all of the allegations at issue), then all of the allegations must be resolved according to the informal resolution process.

Either party has the right to terminate the informal resolution process at any time and proceed with formal resolution (i.e., a full investigation and hearing). Furthermore, the Title IX Coordinator may, where appropriate, terminate informal resolution and proceed with the formal resolution process instead.

#### 2D.02 Notice of Allegations and Notice of Informal Resolution and Facilitator

The Title IX Coordinator will provide the parties a written notice disclosing the Formal Complaint's allegations and the requirements of the informal resolution process, including any circumstances under which MCC would preclude the parties from resuming a Formal Complaint arising from the same allegations.

When the Formal Complaint is to be resolved according to the informal resolution process, the Title IX Coordinator will designate a trained individual to serve as the informal resolution facilitator. The Title IX Coordinator will contemporaneously share the name of the informal resolution facilitator with the Complainant and the Respondent.

Within two days of such notification, the Complainant or Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest or bias posed by assigning that facilitator. The Title IX Coordinator will carefully consider such statements and will promptly assign a different facilitator if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

#### 2D.03 Facilitated Resolution

The informal resolution facilitator will meet separately with each party to review the informal resolution process and the allegations in the Formal Complaint and to identify the outcome that each party seeks from the informal resolution process. If the facilitator determines that it would be productive for both parties to attend a resolution meeting, the facilitator will provide written notice to the Complainant and the Respondent setting forth the date, time, and location of that meeting. At the request of either party or at the discretion of the informal resolution facilitator, the meeting may occur with the parties in different locations or meetings with parties may take place on different dates.

Both the Complainant and the Respondent are expected to participate in the informal resolution process. If either party fails to participate, the Title IX Coordinator may direct that the Formal Complaint be resolved using a full investigation and hearing or may reschedule the meeting.

During informal resolution, the parties may: (1) engage one another in the presence of, and/or facilitated by, the informal resolution facilitator; (2) communicate their feelings and perceptions regarding the incident and the impact of the incident (either by communicating directly with one another or by communicating indirectly through the informal resolution facilitator); (3) relay their wishes and expectations regarding the future; and/or (4) come to an agreed-upon resolution of the allegations in the Formal Complaint.

Participation in the informal resolution process is completely voluntary, and either party, the informal resolution facilitator, or the Title IX Coordinator may terminate the process at any time.

#### 2D.04 Resolution

The informal resolution facilitator will attempt to facilitate the parties' resolution of the Formal Complaint. If this process results in a resolution between the parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances (giving consideration to factors including the extent to which the resolution will protect the safety of the Complainant and the entire MCC community), the resolution will be reduced to writing, which will conclude the process and close the Formal Complaint.

#### 2D.05 Written Resolution Agreement

To be effective, any agreement reached during the informal resolution process must be memorialized in writing and signed by the parties, the informal resolution facilitator, and the Title IX Coordinator. If a Respondent completes all measures agreed to in the written resolution agreement, no further process is available with regard to the allegations in the Formal Complaint.

Measures that parties agree to in the informal resolution process may include (but are not limited to):

Alcohol education classes for the Respondent;

Completion of online sexual harassment training;

Completion of an intervention program;

Regular meetings with an appropriate individual, unit or resource;

Permanent or temporary no contact order;

Restrictions for participation in certain activities, organizations, programs or classes;

Change in residential assignment or restrictions on access to certain residence halls or apartments;

Restriction of participation in certain events;

Reflection paper or written apology;

Counseling sessions; or

The Respondent's completion of an educational or behavioral plan.

#### 2D.06 Termination of Informal Resolution Process

At any time prior to completing a written resolution agreement, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint. If either party terminates the informal resolution process or MCC determines that the informal resolution process is no longer appropriate, the formal resolution process outlined above will promptly resume.

#### 2D.07 Confidentiality of Information Shared

Any information that the parties share during the informal resolution process may not be used in any other investigation or proceeding at MCC.

#### 2D.08 Timeframe

The informal resolution process generally will be completed within 20 days of the parties' agreement to the informal resolution process.

#### 2D.09 Appeal

A resolution reached pursuant to the informal resolution process is final and not subject to appeal.

## 2D.10 Records

A resolution reached through the informal resolution process will not be included in a student Respondent's student conduct record or in an employee Respondent's personnel record, unless the inclusion of such information is agreed to as part of the informal resolution of the matter. The Title IX Coordinator will retain a record of the written resolution agreement for no less than seven years.

### EXHIBIT A

#### Suggested Actions for People Who Have Experienced Sexual Harassment

If you have experienced Sexual Harassment, MCC's first priority is to help you take steps to address your safety, medical needs and emotional well-being. You are encouraged to take the following actions, as applicable, regardless of whether you have made a decision about whether to pursue a criminal or MCC complaint.

#### Ensure Your Physical Safety.

You may seek help from local law enforcement agencies or by contacting the MCC Police Department. The MCC Police Department can assist you with contacting local law enforcement and can help you obtain transportation to the local law enforcement office. Officers are on duty at the MCC Police Department 24 hours a day, seven days a week.

#### Seek Medical Assistance and Treatment.

Local options for medical care include:

Blue Ridge Regional Hospital and Cannon Memorial Hospital. It is crucial that you obtain medical attention as soon as possible after a sexual assault, for example, to determine the extent of physical injury and to prevent or treat sexually transmitted diseases (such as HIV). Medical facilities can also screen for the presence of sedative drugs such as Rohypnol or GHB (date-rape drugs).

The Title IX Coordinator can help you obtain transportation to a local hospital and can help you contact a support person, such as a family member, a friend, or a roommate.

If you choose to have an evidence collection kit (or "rape kit") completed, it is important to do so within 120 hours.

Even if you have not decided whether to file charges, it is advisable to have the evidence collection kit completed so that you can better preserve the options of obtaining a protective order and/or filing criminal charges at a later date.

It is advisable to avoid showering, bathing, going to the bathroom, or brushing your teeth before an evidence collection kit is completed. You should also wear (or take with you in a paper – not plastic – bag) to the hospital the same clothing that you were wearing during the assault. An evidence collection kit can still be completed even if you have showered or bathed.

#### Obtain Emotional Support

The Office of Counseling and Disability Services can help students sort through their feelings and begin the recovery process. The professionals at the Office of Counseling and Disability Services are trained to provide crisis intervention on short-term and emergency issues. The Office of Counseling and Disability Services can also provide referral services for outside providers and law enforcement. Supportive counseling is free of charge to all students. In some instances, the law may require the disclosure of information shared by students with counselors. However, absent a legal mandate to the contrary, counseling services are strictly confidential, are not part of students' records, and will not be reported to other MCC personnel.

Employees may contact the Employee Assistance Program to obtain emotional support. Information is available in Human Resources or from the Title IX Coordinator.

#### Obtain Information/Report Misconduct

You are encouraged to report incidents of sexual assault to MCC's Title IX Coordinator (even if you have filed a report directly with law enforcement). The Title IX Coordinator can help you access resources and can provide you with support and information, including information on MCC's procedures for investigating and addressing instances of sexual assault.

#### Important Contact Information Resources for Parties

##### **Title IX & Coordinator**

Michelle Musich, Dean of Students  
[mmusich@mayland.edu](mailto:mmusich@mayland.edu)  
828-766-1262  
Gwaltney Hall, Student Services  
Online Incident Form found at,  
[www.mayland.edu](http://www.mayland.edu)

##### **Security**

828-766-3000, Gwaltney Hall

##### **Office of Human Resources**

Judy McClure, Director  
[jmcclure@mayland.edu](mailto:jmcclure@mayland.edu)  
828-766-1272  
Gwaltney Hall, Business Office

##### **Office of Counseling & Disability Services**

Doug Dewar, Director  
[ddewar@mayland.edu](mailto:ddewar@mayland.edu)  
828-766-1256  
Gwaltney Hall, 1st Floor

#### **Important Contact Information Community Resources**

##### **Blue Ridge Regional Hospital**

125 Hospital Drive, Spruce Pine, NC  
828-213-1111-24 hours

##### **Cannon Memorial Hospital**

434 Hospital Drive, Linville, NC  
828-737-7000-24 hours

##### **Safe Place – Mitchell & Yancey**

Spruce Pine, NC  
828-765-4044-24 hr crisis line  
[www.mitchellcountysafeplace.org](http://www.mitchellcountysafeplace.org)

##### **Oasis – Avery**

Boone, NC  
828-504-0911-24 hr crisis line  
[www.oasisinc.org](http://www.oasisinc.org)

##### **Avery County Sheriff Department**

200 Montezuma Street, Newland, NC  
828-733-2071, ext. 1208

##### **Mitchell County Sheriff Department**

63 Crimson Laurel Way, Bakersville, NC  
828-688-2139, etc. 1636

**Yancey County Sheriff Department**  
4 East Main Street, Burnsville, NC  
828-682-2124

**Daymark Health Services - Avery**  
828-733-5889  
Daymarkrecovery.org

**RHA Health Services - Mitchell**  
828-765-0894  
www.rhahealthservices.org

**RHA Health Services – Yancey**  
828-682-2111  
www.rhahealthservices.org

**VAYA Health**  
800-849-6127  
Vayahealth.com