



**SOUTH MOUNTAIN  
COMMUNITY COLLEGE**  
A MARICOPA COMMUNITY COLLEGE

# Annual Security Report

# 2021

The federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires colleges and universities, both public and private, participating in federal student aid programs to disclose campus safety information, and imposes certain basic requirements for handling incidents of sexual violence and emergency situations. Disclosures about crime statistics and summaries of security policies are made once a year in an Annual Security Report.

[police.maricopa.edu](http://police.maricopa.edu)

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## **Message from the Maricopa Community Colleges Police Department**

On behalf of the men and women of the Maricopa County Community College's Police Department, it is my pleasure to welcome you to South Mountain Community College.

The Maricopa County Community College District (MCCCD) Police Department is a law enforcement agency that operates onsite, 24 hours a day, 7 days a week, 365 days a year. Police personnel assigned to South Mountain Community College (SMCC) are available on campus every day to provide assistance or information, either in person or by phone. The MCCCD Police Department office at SMCC is located in the Office Annex (OA) Building on the northeast end of campus just west of 24<sup>th</sup> Street.

The MCCCD Police Central Communications Center phone number is (480) 784-0900 and the emergency phone number is (480) 784-0911.

The main campus of South Mountain Community College is located within the boundaries of the City of Phoenix. The MCCCD Police maintains an excellent working relationship with the Phoenix Police Department.

The men and women of the Maricopa Community College Police Department are dedicated individuals who are committed to making a difference and supporting the educational mission of South Mountain Community College. If you are the victim of a crime, I encourage you to report it, in addition to any suspicious activity you observe on campus to the MCCCD Police. I am confident that you will find members of MCCCD Police approachable, knowledgeable, and highly professional.

Please take a few minutes to review the following information. I invite you to contact MCCCD Police if you need further information or simply wish to speak with one of our officers. We are constantly seeking ways to improve the quality of our services and welcome your comments, suggestions, compliments and complaints. Since many of our students also attend other Maricopa Community Colleges, I refer you to the District Police website at <https://police.maricopa.edu/> for links to their Annual Security Reports.

Please feel free to contact me at (602) 243-8073 or by email [kyran.brennan@southmountaincc.edu](mailto:kyran.brennan@southmountaincc.edu)

Sincerely,

*Kyran Brennan*

Kyran Brennan, Commander  
Maricopa County Community College District Police Department

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## Annual Security Report Preparation

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act—known as the Clery Act—is named for Jeanne Clery, a 19-year-old Lehigh University student who was slain in her dorm room in 1986. The law was originally enacted in 1990 as the Crime Awareness and Campus Security Act, which amended the Higher Education Act of 1965 (HEA). The Clery Act requires all postsecondary educational institutions participating in Title IV student financial aid programs to disclose campus crime statistics and security information.

The report provides information to the campus community about crime reporting procedures, various policies, crime prevention programs, and campus crime statistics. In 2013, the Violence Against Women Reauthorization Act (VAWA) amended the Clery Act to require institutions to compile statistics for incidents of domestic violence, dating violence, sexual assault, and stalking; and to include certain policies, procedures, and programs pertaining to these incidents in their annual security reports.

On October 9, 2020, the Department of Education announced the rescission of the 2016 Clery Act Handbook for Campus Safety and Security Reporting and replaced it with a new [Appendix](#) to the Federal Student Aid Handbook. However, the Maricopa Community Colleges District has decided to continue utilizing the 2016 Clery Act Handbook for regulatory guidance.

The Maricopa Community Colleges Police Department prepares the text of this Annual Security Report through a collaborative team approach, which involves other departments within the colleges including the Office of Student Rights and Responsibilities, Counseling Services, and Title IX.

The Maricopa Community Colleges Police Department collects statistical data provided by reports to the Police, other identified campus security authorities and other law enforcement agencies. You may view the Phoenix Police Department website or the Maricopa County Sheriff's Department website to see crime statistics for the general area around the SMCC Main, Laveen and Guadalupe Campuses.

### **Phoenix Police Department:**

<https://www.phoenix.gov/police>

### **Maricopa County Sheriff's Office:**

<https://www.mcso.org/>

The Maricopa Community Colleges do not use any personally identifying information in public record keeping including Clery Act reporting and disclosures such as the Annual Security Report and Daily Crime Log.

The Maricopa Community Colleges Police Department distributes a notice of availability of the Annual Security Report by October 1 of each year to every member of the college community. Anyone, including prospective students and employees, may obtain a copy of the report by visiting <https://police.maricopa.edu/>



## Annual Security Report

The 2021 Annual Security Report is prepared to inform you of SMCC's campus crime statistics, security policies, fire statistics, and steps you can take to enhance your safety. It also includes policies, and programs regarding sexual assault, dating violence, domestic violence, stalking, and alcohol and drug prevention campaigns. This report includes information for the SMCC Main Campus, Laveen, and the Guadalupe Center for the 2018, 2019 and 2020 calendar years.

## Police jurisdiction on MCCCCD campuses

The MCCCCD Police Department is vested with the authority and responsibility to enforce all applicable local, state and federal laws, as well as MCCCCD policies. MCCCCD Police Officers have the authority and duty to conduct criminal investigations, arrest violators and suppress campus crime. MCCCCD Police are empowered by the State of Arizona to provide police and other quality safety services to the Maricopa Community College District.

MCCCCD Police officers are duly sworn peace officers under [A.R.S. § 13-3871](#), are authorized to carry firearms, and have the same authority as municipal police officers to use police powers of arrest. On-duty Police Officers traveling outside routine patrol areas on official College business may take appropriate law enforcement actions as necessary in the absence of available Local, County, or State officers up to and including investigation and final criminal disposition.

The MCCCCD Police Department also employs unarmed police aides to assist with campus security. Police aides are full and part-time department employees who serve as the “eyes and ears” of MCCCCD Police. They take reports for minor incidents, provide basic emergency services and assist police officers as needed.

The MCCCCD Police Department also contracts with an independent security firm to oversee safety and security in the absence of Police/Public Safety Personnel. They typically provide security during the hours the campus is closed. Police Officers, Public Safety Aides and Contract Security Staff, have distinct uniforms and which allow them to be identified by members of the college and surrounding community.

## State and Local Law Enforcement Agencies

The SMCC Police Department works closely with the Phoenix Police Department and The Maricopa County Sheriff's Office. The SMCC Police Department does not have written Mutual Aid Agreements or Memorandums of Understanding with those agencies.

If an outside law enforcement agency contacts MCCCCD regarding a student organization, which is officially recognized by the institution, the Student Code of Conduct would dictate the appropriate intervention for the college. The Student Conduct



Code shall apply to conduct that occurs on college or District premises, or at college- or District-sponsored activities, that adversely affects the college community and/or the pursuit of its objectives. Each student shall be responsible for his/her conduct from the time of admission through the actual awarding of a degree, certificate, or similar indicator of completion of a course of study, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if their conduct is not discovered until after a degree is awarded). The Student Conduct Code shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending.

### **SMCC Police Department Office Location**

The SMCC Main Campus Police Department office is located in the Office Annex Building (OA) located on the northeast side of campus, north of the Business Education (BE) building.

### **MCCCD Police Department Contact Information**

- Chandler-Gilbert: 2626 E. Pecos Rd, Chandler, AZ 85225 – **(480) 732-7280**
- Chandler- Gilbert Williams: 7360 E. Tahoe Ave, Mesa, AZ 85212-**(480) 988-8888**
- Estrella Mountain: 3000 N Dysart Rd, Avondale, AZ 85392 – **(623) 935-8915**
- GateWay:108 N 40<sup>th</sup> St., Phoenix, AZ 85034 - **(602) 286-8911**
- Glendale: 6000 W Olive Ave, Glendale, AZ 85302 - **(623) 845-3535**
- Glendale North: 5727 W Happy Valley Rd, Phoenix, AZ 85310 - **(623) 930-3000**
- Mesa: 1833 W. Southern, Mesa, AZ 85202 – **(480) 461-7046**
- Mesa Red Mountain: 7110 E. McKellips Rd, Mesa AZ 85207 - **(480) 654-7257**
- Paradise Valley:18401 N 32<sup>nd</sup> St., Phoenix, AZ 85032 - **(602) 787-7862**
- Phoenix: 1202 W. Thomas Rd, Phoenix, AZ 85013 – **(602) 285-7777**
- Rio Salado: 2323 W. 14<sup>th</sup> St., Tempe, AZ 85281 – **(480) 377-4556**
- Scottsdale: 9000 E Chaparral Rd, Scottsdale, AZ 85256-**(480) 423-6175**
- South Mountain: 7050 S. 24<sup>th</sup> St., Phoenix, AZ 85042 – **(602) 243-8100**

## Crime Logs

The MCCCCD Police Department maintains a daily crime log documenting reported crimes in accordance with the Clery Act. Campus Crime Logs can be accessed electronically on the MCCCCD Police website <https://police.maricopa.edu/daily-crime-log> or viewed in person by going to any of the MCCCCD police department locations on our campuses.

## Reporting crimes and incidents

The Maricopa Community College District has a number of ways for campus community members and visitors to report crimes, serious incidents, and other emergencies to law enforcement and appropriate college officials. Regardless of how and where you decide to report these incidents, it is critical for the safety of the entire college community that incidents be reported immediately and accurately so MCCCCD Police, or the responsible jurisdictional agency, can investigate the situation and determine if follow-up actions are required, including issuing a Timely Warning or emergency notification.

MCCCCD students, faculty and staff are encouraged to report all crimes and suspicious activity in an accurate and timely manner. If the victim elects not to or is unable to report, a third party may make the report.

**Crimes in progress and serious crimes that have just occurred should be reported by calling 480-784-0911** from any phone or **40911** from any campus phone. Whenever possible, the actual victim of the crime or witness should call directly. First-hand information is usually more accurate and complete. You may report a crime if someone gives you the information and leaves, but include this fact when reporting. Crimes or suspected crimes may be reported by telephone, in person, or with the Rave Guardian mobile application. The Rave Guardian app is available through [Google Play](#) and the [Apple App Store](#).

Non-emergency crimes occurring on MCCCCD property can be reported by dialing **480-784-0900** from any phone or **40900** from any campus phone. MCCCCD Police Officers or Public Safety Aides will respond to all non-emergency calls for service.

## MCCCCD Police Communications & Records Bureau

The MCCCCD Police Communications & Records Bureau is staffed 24 hours a day, seven days a week, by trained public safety dispatchers. Our communication center is centralized and handles both emergency and non-emergency calls for services. Emergency phone calls and officer radio transmissions take precedence; however, all calls will be answered as soon as possible.

Dispatchers receive emergency and non-emergency phone calls from the college community which are requesting police or other emergency services using a multi-line telephone system while monitoring fire, intrusion, and emergency notification systems. Dispatchers also monitor the Rave Guardian mobile app dashboard for emergency

incidents. Dispatchers enter calls with pertinent information from callers into a Computer Aided Dispatch system to be disseminated to officers who respond.

### **What to expect when calling 911**

When calling to report a crime or incident, be ready to give information on the following questions:

- Where is the incident occurring?
- What is happening?
- When did the incident occur?
- Who is involved?
  - Where and when the suspect(s) were last seen
  - Suspects(s) description (including gender, race, age, height, weight, hair color/length, clothing, facial hair, tattoos/scars)
- Weapon(s), if any, and a description
- Other relevant information

In addition to the importance of reporting, information assists responders in developing timely warnings for the college community.

Cell phones do not automatically register caller's names and exact location information in the 911 system. When calling 911 from a cell phone, tell the dispatcher you are calling from a cell phone and provide the location of your emergency. Dispatchers will ask questions regarding the emergency and may confirm information for a proper agency response. Cell phone 911 calls may be re-directed to another law enforcement agency depending on the location of the emergency.

### **Campus Security Authorities**

While the district encourages the college community to promptly report all crimes and other emergencies directly to the MCCCDCD Police Department, the district also recognizes that some may prefer to report the incident to other individuals and offices. The Clery Act recognizes certain college officials, and employees and offices as Campus Security Authorities (CSA's). The act defines these individuals as "officials of an institution who have significant responsibility for student and campus activities," including but not limited to, student discipline, student activities, student club advisors and coaches. Examples of individuals or college departments are: Dean of Students, Disability Services, Veteran's Services, and Athletic Coaches.

The function of a Campus Security Authority at the colleges is to report to the MCCCDCD Police those allegations of Clery Act crimes that he or she receives. CSA's are responsible for reporting allegations of Clery Act crimes that are reported to them in their capacity as a CSA. This means that CSA's are not responsible for investigating or reporting incidents that they overhear students talking about in a hallway conversation;

that a classmate or student mentions during an in-class discussion; that a victim mentions during a speech, workshop, or any other form of a group presentation; or that the CSA otherwise learns about in an indirect manner.

When the District contracted security company personnel are working at colleges, they are considered Campus Security Authorities by Federal Law, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. As such, any employee of the company who works at any location that is owned, leased or controlled by district is required to immediately report any crime reported to him/her to the reporting structure of the Institution, which is the Maricopa County Community College Police Department. The District contracted security company must add this requirement to the Standard Operating Procedures that are read by the officers and supervisors who work on site on all district owned, leased, or controlled properties.

### **Confidential or Anonymous Reporting**

Licensed counselors and pastoral counselors are exempt from Clery Act reporting requirements. To be exempt from disclosing reported offenses, pastoral or professional counselors must be acting in the role of pastoral or professional counselors. Currently, MCCCDC only employs academic counselors who are not exempt from Clery Act reporting requirements.

However, our counselors are encouraged to inform a person receiving counseling of the procedure for reporting crime on a voluntary, confidential basis for the purpose of including the crime in the annual disclosure of crime statistics. When making such a report, the individual is not required to disclose personally identifying information.

A victim's personally identifying information (e.g., name, home or other physical address, contact information, social security number, date of birth) will never be included in the Clery crime log, the Annual Security Report, or any other publicly available recordkeeping related to the Clery Act.

If you would like to report a crime, whether as a victim or witness, but do not wish to reveal your identity, you may contact the MCCCDC Police at 480-784-0900 or use the Rave Guardian mobile application available through [Google Play](#) and [Apple App Store](#). Additional information is helpful to fully investigate and prosecute crime; however, MCCCDC Police will respond to all reports of suspicious or criminal activity.

The purpose of the report is to maintain confidentiality, while taking steps to ensure the future safety of yourself and others. With such information, the college can keep accurate records of the number of incidents involving students, employees and visitors, determine where there may be a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community of potential dangers. Reports filed in this manner are disclosed in the Annual Security Report for statistical purposes. When the report involves allegations of sexual harassment (including sexual violence), it is made available to the campus Title IX Coordinator.

## Services to help you stay safe and prevent crime

### Community Policing

Community-based policing is a collaborative effort between a police department and community that identifies problems of crime and disorder and involves all elements of the community in the search for solutions to these problems. It is founded on close, mutually beneficial ties between police and community members.

In addition to partnering with the community, collecting and analyzing reported crime data plays an important part in this process. The data is reviewed and then educational, enforcement, and deterrent strategies are employed to reduce the occurrence of crime in our community.

The MCCCCD Police Department believes that preventing crime is a shared responsibility. For every crime committed, there must be a desire, an opportunity, and the ability to commit the crime. While you cannot control another's desire or ability to commit a crime, you can control the opportunity by doing the following:

- Always remain alert and aware of your surroundings.
- Always secure valuable items with a proper lock.
- Do not walk alone at night.
- Never leave valuable items unattended.
- Record the make, model and serial numbers of your valuables.
- Report any unusual or suspicious activity you witness.

### Safety Escort Services

A Campus Safety Escort Program has been established, as part of the MCCCCD Police Department's commitment to value-added community-oriented policing. Escorts are limited to the boundaries of MCCCCD properties. Safety escorts are provided by MCCCCD Police Officers and or Public Safety Officers. To request a safety escort at any time, contact the MCCCCD Police at 480-784-0900.

### Emergency Call Boxes

Some colleges have emergency call boxes located throughout their campuses. They are easily identifiable by the blue light on the top of the pole with Emergency printed on it or by a bright yellow box mounted on a metal pole. To operate the call box, simply press the call button, College Police personnel will answer immediately and provide assistance. If the area remains unsafe, you may move to the next call box location and activate it until police arrive. Your location is identifiable to police with each activation. The emergency phones are not only located near campus buildings but also in many of the college operated parking lots and parking structures. The emergency phones are directly linked to the College Police on their corresponding campuses.

## **Alertus**

At various locations, flashing strobes indicate an incident has or is about to occur in an immediate area. The strobes are supported by electronic message boards that provide directives for evacuation, lockdown, or shelter in place. Students and employees are expected to comply with these directives.

## **Rave Alert**

The Maricopa Emergency Management System (MEMS) is an emergency notification system being used by Maricopa districtwide to communicate emergency messaging to all students, employees, and interested parties in the form of a Rave Alert. All students and employees are automatically enrolled in MEMS for text and email notifications. In the event of an emergency on any campus, MCCCDC will use the Rave Alert Emergency Notification System to alert students, faculty and staff via text and email. Alerts are sent when there is an ongoing emergency on or near campus that presents a threat to the safety of the campus community. Messages can be pre-recorded or altered depending on the severity of the situation. Follow up text messages will be sent once the emergency is all clear. It is important to ensure that your contact information is correct and up to date. Contact Information for emergency messaging is ultimately being populated by the data stored in other systems.

Students can manage their Contact Information in SIS (Student Center). Be careful not to confuse your “Emergency Contact” with your Contact Information. To update your Contact Information, scroll to the bottom of the screen and find your Contact Information listed in the “Personal Information” section. Click on the appropriate hyperlinks to edit your Contact Information.

Employees can manage their Contact Details in HCM. Be careful not to confuse your “Emergency Contacts” with your Contact Details. To update your Contact Details, click on “Personal Details” under “Employee Self Service.” Next, click on “Contact Details.” Click on the appropriate hyperlinks to edit your Contact Details.

Interested parties who do not have logon credentials to SIS (Student Center) or HCM should register to receive emergency alerts from Maricopa’s Opt-In Portal:  
<https://www.getrave.com/login/maricopa-community>

## **Rave Guardian App**

The Rave Guardian app is an additional step MCCCDC takes to improve the safety and security of the campus community.

MCCCDC community members gain more mobile reporting power for reporting crimes and emergencies with the free Rave Guardian mobile app available through [Google Play](#) or [Apple App Store](#). Smartphone users who download the app can report tips to

MCCCD Police, make emergency calls, and perform other functions that help enhance their personal safety and security, including requesting Safety Escorts on campus. The app allows users to communicate anonymously with MCCCD Police in real-time via audio and text messages.

Users can also create a network of guardians consisting of family, friends and others they trust to look after them. Friends and family also can virtually walk an app user home. The app's Safety Timer feature uses the phone's GPS to locate an app user's progress on a Web-based map. Users may deactivate the Safety Timer once they have reached their destination safely. Users have total control over who they invite to use this feature, and they also may disable access at any time. The feature is a one-time use, and cannot be used by a family member or friend to monitor a person's location at a later time.

## **Crime Awareness & Prevention**

### **General Crime Prevention**

Maricopa Community Colleges strive to maintain a safe and secure college environment for students, staff and visitors. Offices, laboratories and classrooms are secured when not in use and our officers who discover defective doors and locks, interior/exterior lighting problems, or other safety hazards, immediately report the situation to the appropriate college department for action. To further improve safety, the college encourages all campus community members to take an active role and immediately report any observation of a suspected crime, unusual or suspicious activity, emergency, or hazardous condition to their College police departments.

### **Prevention Programs**

Police officers conduct presentations relating to crime prevention and safety policies during orientations and at other times, when requested by staff or students. Crime prevention materials are distributed to all incoming students.

### **Safety Presentations**

Members of each college Police Department office routinely provide safety presentations during class orientations. They are also available to talk to any department or groups of students. The orientations and talks are designed to educate members of the college community about the services provided and how to avoid becoming the victim of a crime at the college.

### **Bicycle Registration Program**

The Maricopa County Community College Police are asking for your help in combating bicycle thefts on campus. Please [register](#) your bike with our department and always lock



your bicycle to a secure authorized bike rack whenever it is unattended. Please contact our department for more information.

### Theft Prevention Tips

- Never leave your bicycle unattended! Lock it up to an authorized/secure bike rack in a well-lit area with frequent pedestrian traffic.
- Report suspicious activities! Report any suspicious activity near bike racks - if you see something, say something.
- Register your bike! Register your bike with the college police to ensure we have the information needed

## Title IX Sexual Harassment Policy

### I. Definitions

1. **Actual Knowledge** means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of alleged harassing, discriminatory, and/or retaliatory conduct. Actual knowledge compels the Maricopa County Community College District (MCCCD) to initiate action.
2. **Advisor** means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if a hearing is held. This individual may be an MCCCD employee, a member of the community, or attorney (hired and paid for by a party).
3. **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity.
4. **Formal Complaint** means a document filed with the Title IX Coordinator/signed by a Complainant or signed by the Title IX Coordinator alleging against sexual harassment or retaliation for engaging in a protected activity against a Respondent and requesting that the MCCCD investigate the allegation.
5. **Confidential Resource** means an employee who is not a Mandatory Reporter or an Official with Authority (irrespective of Clery Act Campus Security Authority status). At MCCCD, there is only one confidential resource. This confidential resource is the Ombudsman, who is located in the MCCCD Office of Public Stewardship.
6. **Day(s)** means a business day when the MCCCD is in normal operation.
7. **Education program or activity** means locations, events, or circumstances where MCCCD exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the MCCCD.

8. **Final Determination of Responsibility** means a conclusion by preponderance of the evidence that the alleged conduct occurred, or did not occur, and whether it did, or did not violate policy.
9. **Formal Grievance Process** means a method of formal resolution designated by MCCCCD to address conduct that falls within the policies included below, and which complies with the requirements of 34 CFR Part 106.45.
10. **Grievance Process Pool** means any investigators, appeal officers, hearing administrators, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
11. **Hearing Decision-maker** means a person who has decision-making and sanctioning authority within the MCCCCD's Formal Title IX Grievance process.
12. **Investigator** means the person or persons charged by MCCCCD with gathering facts about an alleged violation of this policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
13. **Mandatory Reporter** means an employee of MCCCCD who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator. Mandatory reporters do not convey actual knowledge to the MCCCCD. Mandatory Reporter under this policy does not diminish the requirement under Arizona state law to report alleged or suspected child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandatory\ reporter responsibility in this policy.
14. **Official with Authority (OWA)** means an employee of the MCCCCD explicitly vested with the responsibility to implement corrective measures for harassment and/or retaliation on behalf of the MCCCCD. Notice to an OWA of an allegation of sexual harassment as defined in this policy conveys actual knowledge to the MCCCCD and triggers a responsibility to act.
15. **Parties** include the Complainant(s) and Respondent(s), collectively.
16. **Promptness** means the time period in which allegations are acted upon once MCCCCD has received notice or a formal complaint. Typically, complaints can take 60-90 business days to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but MCCCCD will avoid all undue delays within its control.
17. **Remedies** means post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to MCCCCD's educational program.
18. **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity. When the Respondent is a member of the MCCCCD community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the MCCCCD community.
19. **Resolution** means the result of an informal or formal grievance process.

20. **Sanction** means a consequence imposed by MCCCCD on a Respondent who is found to have violated this policy.
21. **Sexual Harassment** means the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.
22. **Title IX Coordinator** is at least one official designated by MCCCCD to ensure compliance with Title IX and the MCCCCD's Title IX program. References to the coordinator throughout this policy may also encompass a designee of the coordinator for specific tasks.
23. **Student** means any individual who is registered or enrolled for credit or non-credit bearing coursework, camps and other District-sponsored programs or activities, and who maintains an ongoing relationship with the MCCCCD, which means the student is on leave (medical, administrative, or other documented leave of absence), but is not registered or taking classes at the time of the complaint being filed.
24. **Title IX Team** refers to the Title IX Coordinator, any deputy coordinators, and any member(s) of the Grievance Process Pool.

## II. Rationale for Policy

MCCCCD is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from sexual harassment, discrimination on the basis of sex, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, MCCCCD has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of sexual harassment, and for allegations of retaliation. MCCCCD values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

## III. Title IX Coordinator

Each MCCCCD college has a designated Title IX Coordinator who oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating MCCCCD's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

The names and contact information for each college Title IX Coordinator can be found on the following page: <https://district.maricopa.edu/consumer-information/title-ix/title-ix-coordinators>. It is the responsibility of each of the MCCCCD colleges' Vice Presidents of Student Affairs to ensure this list is up-to-date with correct information. The college Title IX Coordinators must act with independence and authority free from bias and conflicts of interest.

To raise any concern involving bias or conflict of interest by the college Title IX Coordinator, contact the Compliance Office in the Office of General Counsel by emailing [compliance@domail.maricopa.edu](mailto:compliance@domail.maricopa.edu). Concerns of bias or a potential conflict of interest by any other Title IX team member should be raised with the respective college Title IX Coordinator.

Reports of misconduct or discrimination committed by the college Title IX Coordinator should be reported to the college Human Resources Department. Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the respective college Title IX Coordinator.

#### **IV. Officials with Authority and Mandatory Reporters**

##### **Officials with Authority**

MCCCD has determined that the following administrators are Officials with Authority to address and correct sexual harassment and/or retaliation. In addition to the Title IX team members listed in Section 1. Definitions, these Officials with Authority listed below may also accept notice or complaints on behalf of the MCCCD. Knowledge on the part of an Official with Authority conveys actual knowledge to the MCCCD.

1. College/District Title IX Coordinator
2. Chancellor
3. Provost
4. General Counsel and Associate General Counsels
5. Chief Human Resources Officer
6. Chief Executive Officer
7. College Vice Presidents (at all levels)
8. Associate Vice Chancellors
9. Law enforcement
10. Athletic Directors
11. Directors (in any administrative area of a college or the District)

##### **Mandatory Reporters**

The following classification of employees are mandatory reporters and are required to report actual or suspected discrimination or harassment to the respective college Title IX Coordinator or to the District Compliance Office for District employees. A Complainant who expects formal action in response to their allegations, but does not wish to contact the Title IX Coordinator should report their allegations to any mandatory reporter who can connect them with resources to report crimes and/or policy violations. Mandatory reporters will, within twenty-four (24) hours, refer reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action. Mandatory reporters must promptly (within twenty-four (24) hours) share with the Title IX Coordinator all known details of a report made to them in the course of their

employment. The persons occupying the following positions are mandatory reporters. Knowledge to a mandatory reporter does not convey actual knowledge to the MCCCCD.

1. Chancellor
2. Provost
3. General Counsel
4. Chief Human Resources Officer
5. Chief Workforce and Economic Development Officer
6. Chief Executive Officer
7. College Presidents
8. Associate Vice Chancellors
9. Director of Communications
10. Associate General Counsels
11. Supervisors/Managers/Directors (but not including division or department chairs)
12. College Vice Presidents, at all levels
13. Deans, at all levels
14. Athletic Directors/Coaches/Trainers
15. Law enforcement

### **Anonymous Notice to Mandated Reporters**

A Complainant may request that the mandatory reporter provide notice to the Title IX Coordinator anonymously, without identification of the Complainant. A mandatory reporter cannot remain anonymous themselves. The MCCCCD will investigate matters in which anonymous notice has been given to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided. However, anonymous notice typically limits the MCCCCD's ability to investigate, respond, and provide remedies, depending on what information is shared. When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a mandatory reporter, but all other details of the alleged incident(s) must be shared with the Title IX Coordinator. Supportive measures may be offered to the Complainant as the result of such disclosures without formal MCCCCD action.

Failure of a mandatory reporter to report an incident of harassment or discrimination of which they become aware is a violation of MCCCCD policy and the mandatory reporter may be subject to disciplinary action, up to and including termination, for failure to comply.

### **V. Confidential Resources and Federal Resources**

- On-campus (Maricopa Community Colleges District Office) Office of Public Stewardship
- Off-campus (non-employees):

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

The Office of Public Stewardship will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client.

External Inquiries may also be made to:

Office for Civil Rights,

**Denver Office**

U.S. Department of Education

Cesar E. Chavez Memorial Building

1244 Speer Boulevard, Suite 310

Denver, CO 80204-3582

Telephone: (303) 844-5695

Facsimile: (303) 844-4303

Email: [OCR.Denver@ed.gov](mailto:OCR.Denver@ed.gov)

## VI. Notice of Complaints of Discrimination, Harassment, and /or Retaliation

Notice or complaints of discrimination, harassment, and/or retaliation in violation of this policy may be made using any of the following options:

1. File a complaint with, or give verbal notice to, a college Title IX Coordinator or an Official with Authority. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed. Title IX Coordinators can be found on the following page: <https://district.maricopa.edu/consumer-information/title-ix/title-ix-coordinators>. It is the responsibility of each of the MCCCDC college's Vice President of Student Affairs to ensure this list is up to date with correct information.
2. Report online, using the reporting form posted at <https://district.maricopa.edu/consumer-information/reporting>. Anonymous reports are accepted, but can give rise to a need to investigate. The MCCCDC tries to provide supportive measures to all Complainants, which is impossible with an anonymous report when the name of the Complainant is not shared in the report. Since anonymous reporting carries no obligation to initiate a formal response and since the MCCCDC respects a Complainant's requests to dismiss complaints, unless there is a compelling threat to health and/or safety, the matter will be dismissed.

A formal complaint is a document filed and signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the MCCCDC investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the MCCCDC) that contains the Complainant’s physical or digital signature, which can include the Complainant’s name on the email, or otherwise indicates that the Complainant is the person filing the complaint.

The Title IX Coordinator will contact the Complainant regarding any notice that is submitted in a form that does not comply with these requirements to ensure that it is filed correctly.

## **VII. Supportive Measures**

MCCCDC will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the MCCCDC’s education program or activity, including measures designed to protect the safety of all parties, the MCCCDC’s educational environment, and/or deter sexual harassment, discrimination on the basis of sex, and/or retaliation.

The Title IX Coordinator shall make supportive measures available to the parties upon receiving notice of allegations or a formal complaint. There is no statute of limitations for filing a Title IX Complaint. The Title IX Coordinator works with the Complainant to ensure their wishes are considered with respect to the planned and implemented supportive measures.

The MCCCDC will maintain the privacy of the supportive measures, provided that maintaining privacy does not impair the MCCCDC’s ability to provide the supportive measures. MCCCDC will act to ensure as minimal an academic impact on the parties as possible. The MCCCDC will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

1. Referral to counseling, medical, and/or other healthcare services
2. Referral to the Employee Assistance Program
3. Referral to community-based service providers
4. In-house visa and immigration assistance
5. Student financial aid counseling
6. Education to the community or community subgroup(s)



7. Altering work arrangements for employees or student-employees
8. Safety planning
9. Providing campus safety escorts
10. Implementing contact limitations (no contact orders) between the parties
11. Academic support, extensions of deadlines, or other course/program-related adjustments
12. Trespass orders, when applicable
13. Timely warnings under the Clery Act
14. Class schedule modifications, withdrawals, or leaves of absence
15. Increased security and monitoring of certain areas of the campus
16. Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement and further discipline, as is necessary.

### **VIII. Emergency Removal**

MCCCD can act to remove a Respondent entirely or partially from its education program/activities or MCCCD employment on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the college or District Behavioral Intervention Team (also known as BIT/BAT/TAT/CARE, etc.) using its standard objective violence risk assessment procedures.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion from the MCCCD or termination from employment.

In all cases where an emergency removal is imposed:

1. The Respondent will be given written notice of the action. In the written notice will be the option to request to meet with the Title IX Coordinator as soon as reasonably possible, to show cause as to why the action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the underlying Title IX allegations, but rather an administrative process intended to determine solely whether the emergency removal is appropriate.
2. The Respondent has three (3) days after the receipt of the emergency removal to request a meeting with the Title IX Coordinator. If the Respondent does not make such a request within the three (3) day time period, objection to the emergency removal is deemed waived.
3. The Respondent may be accompanied by an Advisor of their choosing in the Show Cause administrative meeting with the Title IX Coordinator.

4. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation. Such summary will be included in the notification letter regarding the emergency removal.
5. The Title IX Coordinator will issue a Show Cause Meeting Determination letter to the Respondent within two (2) days of the meeting taking place.
6. There is no appeal process for emergency removal decisions.
7. A Complainant and their Advisor may be permitted to participate in this meeting, as it is equitable to do so.
8. MCCCDC will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns.

For additional information regarding emergency removals, please see [Emergency Removals](#).

## **IX. Privacy**

Every effort is made by the MCCCDC to preserve the privacy of a report under this policy.

For additional information regarding privacy and confidentiality under this policy, please see [Privacy and Confidentiality](#).

## **X. Jurisdiction**

This policy applies to all MCCCDC educational programs and activities, and to conduct that takes place on the campus or on property owned or controlled by the MCCCDC, at MCCCDC-sponsored events, or in buildings owned or controlled by MCCCDC's recognized student organizations. The Respondent must be a member of MCCCDC's community in order for its policies to apply. Nevertheless, even when the Respondent is not a member of the MCCCDC's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

This policy applies to the effects of off-campus misconduct that effectively deprive someone of access to MCCCDC's educational programs. The MCCCDC may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial MCCCDC interest.

Regardless of where the conduct occurred, the MCCCDC will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity.

A Title IX Coordinator may be able to provide guidance for a student or employee Complainant who experiences sexual harassment/discrimination in an externship, study abroad program, or other environment external to the MCCCDC under the MCCCDC's Student Conduct Code or employee conduct or nondiscrimination policies.

For additional information regarding the MCCCDC jurisdiction over Title IX matters, please see [Jurisdiction](#).

## **XI. Time Limits on Reporting**

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the MCCCDC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator (except in cases where mandatory dismissal is required), who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

The MCCCDC will apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of the notice of alleged misconduct or complaint of sexual harassment.

## **XII. Online Harassment and Misconduct**

This policy is written and should be interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the MCCCDC's education programs and activities or use MCCCDC networks, technology, or equipment.

When harassing communications made on websites, social media, and other venues not controlled by the MCCCDC are reported to the MCCCDC pursuant to this policy the MCCCDC will attempt to address and mitigate the effects of such communications. Any online postings or other electronic communication by students and employees, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of the MCCCDC's control (e.g., not on MCCCDC networks, websites, or between MCCCDC email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial in-program disruption to the student's educational pursuit of MCCCDC's educational programs and/or activities.

Off-campus harassing speech by employees, whether online or in person, may be regulated by the MCCCDC only when such speech is made in an employee's official or work-related capacity, including where the speaker holds themselves out as employees of an MCCCDC college or District office. Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech will not be subjected to discipline.

### **XIII. Title IX Sexual Harassment**

MCCCD has adopted the following definition of Title IX Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment/discrimination, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

1. Quid Pro Quo
  - a. an employee of the MCCCD
  - b. conditions the provision of an aid, benefit, or service of the MCCCD
  - c. on an individual's participation in unwelcome sexual conduct; and/or
  
2. Sexual Harassment:
  - a. unwelcome conduct,
  - b. determined by a reasonable person,
  - c. to be so severe, and
  - d. pervasive, and,
  - e. objectively offensive,
  - f. that it effectively denies a person equal access to the MCCCD's education program or activity. Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.
  
3. Sexual Assault, defines as:
  - a. Sex Offenses, Forcible:
    - i. any sexual act directed against another person,
    - ii. without the consent of the Complainant,
    - iii. including instances in which the Complainant is incapable of giving consent.
  - b. Forcible Rape:
    - i. Penetration,
    - ii. no matter how slight,
    - iii. of the vagina or anus with any body part or object, or
    - iv. oral penetration by a sex organ of another person,
    - v. without the consent of the Complainant.

- c. Forcible Sodomy:
    - i. Oral or anal sexual intercourse with another person,
    - ii. forcibly,
    - iii. and/or against that person's will (non-consensually), or
    - iv. not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age (under the age of 18) or because of temporary or permanent mental or physical incapacity.
  - d. Sexual Assault with an Object:
    - i. The use of an object or instrument to penetrate,
    - ii. however slightly,
    - iii. the genital or anal opening of the body of another person,
    - iv. forcibly,
    - v. and/or against that person's will (non-consensually),
    - vi. or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - e. Forcible Fondling:
    - i. The touching of the private body parts of another person (buttocks, groin, breasts),
    - ii. for the purpose of sexual gratification,
    - iii. forcibly,
    - iv. and/or against that person's will (non-consensually),
    - v. or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - f. Sex Offenses, Non-forcible:
    - i. Incest
      - 1. Non-forcible sexual intercourse,
      - 2. between persons who are related to each other,
      - 3. within the degrees wherein marriage is prohibited by Arizona law.
    - ii. Statutory Rape
      - 1. Non-forcible sexual intercourse,
      - 2. with a person who is under the Arizona statutory age of consent, which is the age of 18 years old.
4. Dating Violence, defined as:
- a. violence
  - b. on the basis of sex,
  - c. committed by a person,
  - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

- i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition
  - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse
  - iii. Dating violence does not include acts covered under the definition of domestic violence.
5. Domestic Violence, defined as:
  - a. Violence
  - b. On the basis of sex,
  - c. committed by a current or former spouse or intimate partner of the Complainant
  - d. by a person with whom the Complainant shares a child in common, or
  - e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
  - f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the state of Arizona or
  - g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the state of Arizona.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6. Stalking, defined as:
  - a. engaging in a course of conduct,
  - b. on the basis of sex,
  - c. directed at a specific person, that
  - d. would cause a reasonable person to fear for the person's safety, or the safety of others; or suffer substantial emotional distress.

For the purposes of this definition -

- i. Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
  - ii. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

- iii. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

MCCCD reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

**Force, Coercion, Consent, and Incapacitation:**

As used in the offenses above, the following definitions apply:

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point may be coercive.

**Consent is:**

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity. No one under the age of consent in Arizona, specifically, 18 years old, can consent to sexual activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.



Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the MCCCCD to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

**Incapacitation:** Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

## **Applicable Jurisdictional Law Definitions Sexual Assault, Dating Violence, Domestic Violence and Stalking**

### **Arizona**

The Arizona Revised Statutes contain the following definitions, which applies to all MCCCCD locations.

### **A.R.S. § 13-1406: Sexual Assault**

A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of each person.

### **A.R.S. § 13-1401: “Without Consent”**

“Without consent” includes any of the following:

- The victim is coerced by the immediate use or threatened use of force against a person or property.
- The victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant. For the purposes of this subdivision, “mental defect” means the victim is unable to comprehend the distinctively sexual nature of conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct with another.
- The victim is intentionally deceived as to the nature of the act.
- The victim is intentionally deceived to erroneously believe the person is the victim’s spouse.

### **A.R.S. § 13-3601: Domestic Violence**

A crime of violence or criminal damage, if any of the following apply:

- The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.
- The victim and the defendant have a child in common.
- The victim or the defendant is pregnant by the other party.
- The victim is related to the defendant or the defendant’s spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.
- The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.
- [Dating Violence] The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship:
  - (a) The type of relationship.
  - (b) The length of the relationship.

- (c) The frequency of the interaction between the victim and the defendant.
- (d) If the relationship has terminated, the length of time since the termination.

**A.R.S. § 13-2923: Stalking**

A. A person commits stalking if the person intentionally or knowingly engages in a course of conduct that is directed toward another person and if that conduct causes the victim to:

1. Suffer emotional distress or reasonably fear that either:

- a) The victim's property will be damaged or destroyed.
- b) Any of the following will be physically injured:

- (i) The victim

- (ii) The victim's family member, domestic animal or livestock.

- (iii) A person with whom the victim has or has previously had a romantic or sexual relationship.

- (iv) A person who regularly resides in the victim's household or has resided in the victim's household within the six months before the last conduct occurred.

2. Reasonably fear death or the death of any of the following:

- a) The victim's family member, domestic animal or livestock.
- b) A person with whom the victim has or has previously had a romantic or sexual relationship.
- c) A person who regularly resides in the victim's household or has resided in the victim's household within the six months before the last conduct occurred.

B. This section does not apply to an interactive computer service, as defined in 47 United States Code section 230(f)(2), or to an information service or telecommunications service, as defined in 47 United States Code section 153, for content that is provided by another person.

C. Stalking under subsection A, paragraph 1 of this section is a class 5 felony. Stalking under subsection A, paragraph 2 of this section is a class 3 felony.

D. For the purposes of this section:

1. "Course of conduct:"

(a) Means directly or indirectly, in person or through one or more third persons or by any other means, to do any of the following:

(i) Maintain visual or physical proximity to a specific person or direct verbal, written or other threats, whether express or implied, to a specific person on two or more occasions over a period of time, however short.

(ii) Use of any electronic, digital or global positioning system device to surveil a specific person or a specific person's internet or wireless activity continuously for twelve hours or more or on two or more occasions over a period of time, however short, without authorization.

(iii) Communicate, or cause to be communicated, on more than one occasion words, images or language by or through the use of electronic mail or an electronic communication that is directed at a specific person without authorization and without a legitimate purpose.

(b) Does not include constitutionally protected activity or other activity authorized by law, the other person, the other person's authorized representative or if the other person is a minor, the minor's parent or guardian.

2. "Emotional distress" means significant mental suffering or distress that may, but does not have to, require medical or other professional treatment or counseling.

#### **XIV. Retaliation**

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The MCCCDC is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

It is prohibited for the MCCCDC or any member of MCCCDC's community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Charges against an individual for Student Conduct Code violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

The following do not constitute retaliation under this policy:

1. The exercise of rights protected under the First Amendment.
2. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure. A determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

For additional information on prohibited retaliation, please see [Retaliation](#).

## **XV. When a Complainant Does Not Wish to Proceed**

If a complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the MCCCDCD proceeds when the complainant does not wish to do so. The Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment. The Title IX Coordinator's decision to sign a formal complaint should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the MCCCDCD to pursue formal action to protect the community.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy. The Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the MCCCDCD to honor that request, the MCCCDCD will offer supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the MCCCCD, and to have the incidents investigated and properly resolved through these procedures.

#### **XVI. Federal Timely Warnings Obligations**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, MCCCCD must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

MCCCCD will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

#### **XVII. False Allegations and Evidence**

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be referred to either the Student Conduct Code or employee conduct policies for appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an investigator or hearing Decision-maker will be subject to discipline under the appropriate student or employee policy as well as under this policy for providing false testimony.

#### **XVIII. Amnesty for Complainants and Witnesses**

The MCCCCD community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to MCCCCD officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the MCCCCD community that Complainants choose to report misconduct to MCCCCD officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process. To encourage reporting and participation in the process, MCCCCD maintains a policy of offering parties and witnesses amnesty from minor policy violations, such as underage consumption of alcohol or the use of illicit drugs related to the incident being reported.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. A decision not to offer amnesty to a Respondent should not be based on sex nor gender, but should take into account the rationale for amnesty. The incentive to report serious misconduct is rarely applicable to Respondents with respect to a Complainant.

MCCCD maintains a policy of amnesty for students who offer help to others in need via bystander intervention. While policy violations cannot be overlooked, MCCCD may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

## **XIX. Federal Statistical Reporting Obligations**

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a. All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b. Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c. VAWA based crimes, which include sexual assault, domestic violence, dating violence, and stalking (VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040); and
- d. Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: presidents, vice-presidents, student affairs/student conduct staff, campus law enforcement/public safety, local police, coaches, athletic directors, student activities staff, human resources staff, Advisors to student organizations, and any other official with significant responsibility for student and campus activities.

## **XX. Alleged Violations of the Title IX Policy**

### **1. Overview**

MCCCD will act on any formal or informal notice/complaint of violation of the Title IX Sexual Harassment policy (“the Policy”) that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures.



The procedures below apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined in Section XIII) involving MCCCDC students, staff, administrator, or faculty members.

Unionized/other categorized employees are subject to the terms of their agreements/employees' rights to the extent those agreements do not conflict with this policy.

## **2. Notice/Complaint**

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of this Policy, MCCCDC will initiate a prompt initial assessment to determine the next steps. The Title IX Coordinator will initiate at least one of three responses:

1. Offering supportive measures because the Complainant does not want to proceed formally;
2. Offering supportive measures and initiating an informal resolution; or
3. Offering supportive measures and initiating a Formal Grievance Process including an investigation and a hearing to determine whether or not the Policy has been violated.

## **3. Initial Assessment**

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator (or designee) will engage in an initial assessment, which is typically one (1) to five (5) business days in duration.

For more information related to the Initial Assessment, please see The [Investigative Process](#).

## **4. Emergency Removal**

In the event an emergency removal is considered, the Title IX Coordinator will follow the procedures outlined in Section VIII of this policy.

## **5. Dismissal (Mandatory and Discretionary)**

Mandatory Dismissal: The Title IX Coordinator must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Policy hereinabove, even if proved; and/or
2. The conduct did not occur in an educational program or activity controlled by MCCCCD (including buildings or property controlled by recognized student organizations), and/or MCCCCD does not have control of the Respondent; and/or
3. The conduct did not occur against a person in the United States; and/or
4. At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the MCCCCD.
5. Any conduct alleged in the formal complaint that is dismissed under the first (1st) provision above will be referred by the Title IX Coordinator to the Student Code of Conduct administrator (for student Respondents) or the college or district Human Resources administrator (for employee/third party Respondents). Referrals shall take place within three (3) days of the date of the Dismissal Letter being mailed to the parties.

Discretionary Dismissal: The Title IX Coordinator may choose to dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it; or
2. The Respondent is no longer enrolled in or employed by the MCCCCD; or
3. Specific circumstances prevent MCCCCD from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
4. Upon any dismissal, MCCCCD will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

Both mandatory and discretionary dismissal decisions are appealable by any party under the procedures for appeal below.

## 6. Counterclaims

MCCCD is obligated to ensure that the grievance process is not abused for retaliatory purposes. MCCCD permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims made with retaliatory intent will not be permitted and may constitute a violation of this policy.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator.

## 7. Right to an Advisor

The parties may each have an Advisor of their choice. The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the MCCCD community. The Advisor may be present with the Complainant or Respondent for all of their meetings and interviews within the resolution process, if they so choose.

The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available. "Available" means the party agrees to act as Advisor and has no conflict of interest in doing so. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

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

If the parties choose an Advisor from the pool available from the MCCCD, the Advisor will be trained by the MCCCD and be familiar with the MCCCD's resolution process. If the parties choose an Advisor from outside the pool of those identified by the MCCCD, the Advisor may not have been trained by the MCCCD and may not be familiar with MCCCD policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing. If either party chooses not to have an Advisor present in the initial stages of the resolution process, this choice will be documented in the record of the case.

For more information regarding the training received by an Advisor, please see [Advisors FAQ](#).

**a. Advisors in Hearings/MCCCD-Appointed Advisor**

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, MCCCD will appoint a trained Advisor for the limited purpose of conducting cross-examination.

A party may reject this appointment and choose their own Advisor, but they may not proceed with the hearing without an Advisor. If the party's Advisor will not conduct cross-examination, MCCCD will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses may also be conducted by the Decision-maker during the hearing.

**b. Pre-Interview Meetings**

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. In order for a pre-interview meeting to be held it must be requested by the Advisor. This pre-meeting allows Advisors to clarify and understand their role and MCCCD's policies and procedures. A pre-interview meeting is not mandatory.

**c. Advisor Violations of MCCCD Policy**

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

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

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

**d. Sharing Information with the Advisor**

Parties may share documentation and evidentiary information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

MCCCD also provides a consent form (FERPA authorization to release) that authorizes the MCCCD to share such information directly with a party's Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before MCCCD is able to share records with an Advisor.

The MCCCD will not comply with any party's request that all communications be made through their attorney Advisor.

**e. Privacy of Records Shared with Advisor**

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by MCCCD. MCCCD may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the MCCCD's privacy expectations.

**f. Expectations of an Advisor**

The MCCCD expects an Advisor to adjust their schedule to allow them to attend MCCCD meetings when planned. At the sole discretion of the Title IX Coordinator, scheduled meetings may be changed to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay. A Title IX Coordinator's decision as to whether to change meeting dates and times is final.

MCCCD may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

**g. Expectations of the Parties with Respect to Advisors**

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

**8. Resolution Processes**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with MCCCCD policy. While there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose. MCCCCD encourages parties to discuss this topic with their Advisors before doing so.

**9. Formal Grievance Process**

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees. They are also listed in the Annual Title IX Report published by the Title IX Office.

For more information regarding the Formal Grievance Pool—including selection, training, and responsibilities please see [Formal Grievance Pool](#).

**10. Formal Grievance Process: Notice of Investigation and Allegations**

The Title IX Coordinator will provide written notice of allegations (the “NOA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOA is also copied to the Complainant, who is to be given advance notice of when the NOA will be delivered to the Respondent.

The NOA will include:

- A meaningful summary of all of allegations,

- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A statement of the potential sanctions/responsive actions that could result
- A statement that the MCCCCD presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the MCCCCD's policy on retaliation,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that the MCCCCD's policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A suggested date and time for an initial meeting (proper time will be given to allow for the selection of an Advisor)
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and will be sent via electronic mail to the MCCCCD-issued email account and mailed via regular mail to the local or permanent address as indicated in official MCCCCD records. Notice is presumed to have been given upon emailing the NOA to the Respondent's MCCCCD-owned email address. The NOA will also be placed in regular mail, postage pre-paid.

## 11. Resolution Timeline

The MCCCCD will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate,



as well as an estimate of how much additional time will be needed to complete the process.

## **12. Appointment of Investigators**

Once the decision to commence a formal investigation is made, the Title IX Coordinator shall appoint a team of two (2) investigators to investigate the allegations. Appointment of investigators typically occurs within two (2) business days of determining that an investigation should proceed.

## **13. Ensuring Impartiality**

Any individual materially involved in the administration of the resolution process may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent. The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. The Title IX Coordinator's decision allegations of bias or conflict of interest is final.

The Formal Grievance Process involves an objective evaluation of all relevant inculpatory and exculpatory evidence obtained. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

A Respondent is presumed not to be responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable preponderance of the evidence standard.

## **14. Delays in the Investigation Process and Interactions with Law Enforcement**

The MCCCCD may undertake a short delay in its investigation (several days) if the following circumstances require: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions, or such circumstances as determined by the Title IX Coordinator in their sole discretion.

The MCCCCD will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. The MCCCCD will promptly resume its investigation and resolution process as soon as feasible. During such a delay, MCCCCD will implement supportive measures, as deemed appropriate.

The MCCCCD's action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

15. All investigations should be thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. Either party may submit a written statement to the Title IX Coordinator outlining their position on the allegations.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses (at their own expense), and to fully review and respond to all evidence on the record.

For additional information regarding steps in the investigative process, please see [Investigative Process](#).

#### **16. Role and Participation of Witnesses in the Investigation**

Witnesses (as distinguished from the parties) who are employees or students of the MCCCCD are expected to cooperate with and participate in the MCCCCD's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of this policy and may warrant discipline.

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. MCCCCD will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in addition to being interviewed. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.

#### **17. Recording of Interviews**

No audio or video recording of any kind is permitted during investigation meetings.

#### **18. Evidentiary Considerations in the Investigation**

The investigation does not consider:

1. incidents not directly related to the possible violation, unless they evidence a pattern;
2. the character of the parties; or
3. questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such 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 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.

#### **19. Referral for Hearing**

The Title IX Coordinator will refer the matter for a hearing, once the final investigative report is shared with the parties.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation, when the final investigation report is made available to the Parties and the Decision-maker for review and comment, unless all parties, and the Decision-maker agrees to an expedited timeline. This agreement must be in writing.

The Title IX Coordinator will select a Decision-maker that is hired from a list of approved attorneys for any hearing held under the Title IX policy.

#### **20. Hearing Decision-maker Composition**

The MCCCCD will designate a single decision-maker. The single Decision-maker will also be the Chair of the hearing. The Decision-maker will not have had any previous involvement with the investigation. The Decision-maker is an out-sourced position. The Decision-maker will not be an MCCCCD employee. The Decision-maker will have had no previous involvement in the matter at hand.

#### **21. Evidentiary Considerations in the Hearing**

Any evidence that the Decision-maker determines is relevant and credible may be considered. The hearing does not consider:

1. incidents not directly related to the possible violation, unless they evidence a pattern;
2. the character of the parties; or

3. questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such 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 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.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

The parties, if they so choose, may submit a written impact statement prior to the hearing for the consideration of the Decision-maker at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence--whether it is more likely than not that the Respondent violated the policy as alleged.

## 22. **Notice of Hearing**

No less than ten (10) business days prior to the hearing, the Title IX Coordinator will send notice of the hearing to the parties via email to the individual MCCCCD-issued email address. Once emailed, notice will be presumptively delivered.

The notice will contain:

1. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
2. The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities. Thoroughness and fairness are the primary FOCI of any Title IX hearing process. Hearings are generally scheduled for two (2) hours, but can be extended, as needed at the discretion of the Decision-maker, to ensure that both parties are able to present the information relevant to their position. (e.g., complicated fact pattern, numerous witnesses, etc.).
3. Any technology that will be used to facilitate the hearing.
4. A list of all those who will attend the hearing, along with an invitation to object to the Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.

5. Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
6. A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker. For compelling reasons, the Decision-maker may reschedule the hearing.
7. Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the MCCCDC will appoint one. Each party must have an Advisor present. There are no exceptions.
8. An invitation to each party to submit to the Decision-maker an impact statement. Pre-hearing that the Decision-maker will review during any sanction determination.
9. An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
10. Direction that the parties may not bring mobile phones/devices into the hearing. Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the MCCCDC and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this policy is not in good standing to graduate.

## **23. Virtual Hearings**

All hearings will occur virtually by use of technology, specifically WebEx or Zoom technology. Each party will be located in a separate room from the Decision-maker, but will be able to see and hear each other. Witnesses will testify in the same room as the Decision-maker, but not the room where the parties and their Advisors sit. The Title IX Coordinator will arrange to use technology to allow remote testimony without compromising the fairness of the hearing.

## 24. Pre-Hearing Preparation

The Decision-maker, or designee, after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing. During the ten (10) business day period prior to the hearing, the parties have the opportunity to review and comment on the final investigation report and available evidence.

The Decision-maker, or designee will also provide the parties a copy of the pre-hearing preparation checklist/document. A copy of the pre-hearing preparation checklist/document may be found on the MCCC's Title IX webpage: <https://district.maricopa.edu/consumer-information/title-ix/>.

## 25. Hearing Procedures

At the hearing, the Decision-maker has the authority to hear and make determinations on all allegations of sexual harassment and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the Title IX policy.

Participants at the hearing will include the Decision-maker, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties, Advisors to the parties, any called witnesses, the Title IX Coordinator and anyone providing authorized accommodations or assistive services.

The Decision-maker will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Decision-maker will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker and the parties and will then be excused from attendance.

## 26. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the parties may agree to hear the allegations jointly. All parties must agree to a joint hearing. If one party does not agree, the default will be to hold the hearings separately.

In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

## **27. Refusal to Submit to Cross-Examination and Inferences**

The Decision-maker may not rely on any prior statement made by any party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility, if that party or witness chooses not to submit to cross-examination at the hearing, by either failing to attend the hearing or by attending but refusing to participate in questioning. The Decision-maker may consider evidence provided that is something other than a statement by such a party or witness.

If the party or witness attends the hearing and answers some, but not all, cross-examination questions, the Decision-maker may rely only on those statements related to the cross-examination questions that they answered. The Decision-maker cannot rely on any portion of a statement related to cross-examination questions that a party or witness refused to answer. Except that, a Decision-maker can rely on statements that are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), even if the party who allegedly made the statements refuses to attend the hearing or submit to cross-examination.

The Decision-maker may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with MCCCCD's established rules of decorum for the hearing, MCCCCD may require the party to use a different Advisor. If a MCCCCD-provided Advisor refuses to comply with the rules of decorum, the Title IX Coordinator may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

## **28. Recording Hearings**

Hearings (but not deliberations) are recorded by MCCCCD for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker, the parties, their Advisors, and appropriate administrators of the MCCCCD will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given a copy or be allowed to make a copy of the recording.



## 29. **Deliberation, Decision-making, and Standard of Proof**

The Decision-maker will deliberate alone to determine, by a preponderance of the evidence, whether the Respondent is responsible or not responsible for the policy violation(s) in question. The deliberation period is not to exceed five (5) days. The Decision-maker may consider the previously submitted party impact statements in determining appropriate sanction(s), when there is a finding of responsibility as to one or more of the allegations.

The Decision-maker will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker may--at their discretion--consider the statements, but they are not binding.

The Decision-maker will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions. This report typically should not exceed three (3) to five (5) pages in length and must be submitted electronically to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties in writing of the extension.

## 30. **Notice of Outcome**

Using the deliberation statement, the Title IX Coordinator will prepare a Notice of Outcome, which shall include the final determination, rationale, and any applicable sanction(s). The Title IX Coordinator will then provide the Notice of Outcome to the parties and their Advisors within five (5) business days of receiving the Decision-maker's deliberation statement. The Notice of Outcome must be shared with the parties simultaneously.

Notification will be made in writing and will be mailed to the local or permanent address of the parties as indicated in official MCCC CD records, or emailed to the parties' MCCC CD-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

For more information about the Notice of Outcome Letter, please see [Notice of Outcome](#).

## 31. **Sanctions**

Factors considered when determining a sanction/responsive action may include, but are not limited to:

1. The nature, severity of, and circumstances surrounding the violation(s)
2. The Respondent's disciplinary history

3. Previous allegations or allegations involving similar conduct
4. The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
5. The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
6. The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
7. Any other information deemed relevant by the Decision-maker

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

a. **Student Sanctions**

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

1. *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any MCCCDCD policy, procedure, or directive will result in more severe sanctions/responsive actions.
2. *Required Counseling*: A mandate to meet with and engage in external counseling to better comprehend the misconduct and its effects.
3. *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
4. *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at MCCCDCD.
5. *Expulsion*: Permanent termination of student status and revocation of rights to be on any MCCCDCD campus for any reason or to attend MCCCDCD-sponsored events.
6. *Withholding Diploma*: MCCCDCD may withhold a student's diploma for a specified period of time and/or deny a student participation in

commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.

7. *Revocation of Degree*: MCCCDC reserves the right to revoke a degree previously awarded from MCCCDC for fraud, misrepresentation, and/or other violation of MCCCDC policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
8. *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including MCCCDC registration) for a specified period of time.
9. *Other Actions*: In addition to or in place of the above sanctions, MCCCDC may assign any other sanctions as deemed appropriate.

**b. Employee Sanctions**

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

1. Warning – Verbal or Written
2. Performance Improvement/Management Process
3. Required Counseling
4. Required Training or Education
5. Probation
6. Loss of Annual Pay Increase
7. Loss of Oversight or Supervisory Responsibility
8. Demotion
9. Suspension with pay
10. Suspension without pay
11. Termination
12. *Other Actions*: In addition to or in place of the above sanctions, the MCCCDC may assign any other sanctions as deemed appropriate.

**32. Withdrawal or Resignation While Charges Pending**

Students: If a student is a Respondent in a pending matter alleging a violation of the Title IX policy, the MCCCDC may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the MCCCDC, the resolution process ends, as the MCCCDC no longer has disciplinary jurisdiction over the withdrawn student. A student who withdraws or leaves while the process is pending may not return to any MCCCDC college. Such exclusion applies to all campuses of MCCCDC. A hold will be placed on

their ability to be readmitted. They may also be barred from MCCCCD property and/or events.

However, MCCCCD will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

During the resolution process, MCCCCD may put a hold on a responding student's educational record that a disciplinary matter is pending.

Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as MCCCCD no longer has disciplinary jurisdiction over the resigned employee. The employee who resigns with unresolved allegations pending is not eligible for rehire with any MCCCCD or any campus of the MCCCCD, and the records retained by the Title IX Coordinator will reflect that status. Human Resources should also be notified and make the appropriate notation on its list of people who are not permitted to be rehired.

However, MCCCCD will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

All MCCCCD responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

### 33. **Appeals**

Any party may file a Request for Appeal by submitting such a request in writing to the Title IX Coordinator within five (5) days of the delivery of the Notice of Outcome Letter. Once the five (5) days have passed, the matter will be deemed closed.

The request for appeal will be forwarded to the Provost or Chief Academic Officer for the MCCCCD, acting as the Appeal Chair, for consideration to determine if the request meets the grounds for appeal.

#### a. **Grounds for Appeal**

Appeals are limited to the following grounds:

- A. Procedural irregularity that affected the outcome of the matter;
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and

- C. An allegation that the Title IX Coordinator, Investigators, or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

The Appeal Chair will deny any request for appeal that does not meet the grounds in this policy and will notify the parties and their Advisors in writing of the denial and the rationale. Denials based on lack of grounds shall be communicated to the requesting party within five (5) days of the request for appeal being received by the Appeal Chair.

If any of the grounds in the Request for Appeal meet the grounds in this policy, then the appeal chair will:

1. Notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the investigators and/or the original Decision-maker.
2. Provide the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker a copy of the appeal request with the approved grounds outlined.
3. Provide the other party(ies) and their Advisors, the Title IX Coordinator, and when appropriate, the investigators and/or the original Decision-maker five (5) days to submit a response to the portion of the appeal that was approved and involves them.
4. Collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and render a decision in no more than fifteen (15) days from the date the Request for Appeal was filed, barring exigent circumstances. All decisions apply the preponderance of the evidence.
5. Prepare a Notice of Appeal Outcome letter and send it to all parties simultaneously, which includes the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome letter will also outline specific instructions for remand or reconsideration of any sanction imposed by the Decision-maker, which MCCCCD is permitted to share according to state or federal law.

The Notice of Appeal Outcome letter will be mailed to the local or permanent address of the parties as indicated in official institutional records and emailed to the parties' MCCCCD-issued email or otherwise approved account. Notice is presumed to have been made once the letter is emailed.

**b. Sanctions Status During the Appeal**

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be continued or reinstated, subject to the supportive measures procedure in Section VII of this policy.

MCCCD may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

### **34. Long-Term Remedies/Other Actions**

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

1. Referral to community services including counseling and health services
2. Referral to the Employee Assistance Program
3. Education to the individual and/or the community
4. Permanent alteration of work arrangements for employees
5. Provision of campus safety escorts
6. Climate surveys
7. Policy modification and/or training
8. Implementation of long-term contact limitations between the parties
9. Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the MCCCD to the Respondent to ensure that the Respondent did not experience effective denial of educational access.

The MCCCD will maintain the privacy of any Party subject to any long-term remedies/actions/measures, provided doing so does not impair the MCCCD's ability to provide these services.

### **35. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions**

All parties are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker (including the Appeal Chair).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the MCCCD.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

### **36. Recordkeeping**

MCCCD will maintain for a period of seven (7) years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the MCCCD's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, investigators, Decision-makers, and any person who facilitates an Informal Resolution process. MCCCD will make these training materials publicly available on MCCCD's website. (Note: If the MCCCD does not maintain a website, MCCCD must make these materials available upon request for inspection by members of the public.); and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to the MCCCD's education program or activity; and
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The MCCCD will also maintain any and all records in accordance with state and federal laws. The MCCCD will follow the destruction of records policy as outlined by the state of Arizona.

### **37. Disabilities Accommodations in the Resolution Process**

MCCCD is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the MCCCD's resolution process. Anyone needing such accommodation should contact the Title IX Coordinator and request the accommodation. The Title IX Coordinator shall seek consultation from the college Disability Resource Services Manager (for students) or Human Resources (for employees).



### **38. Mandatory Training**

This policy requires that annual training for the Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process will include:

1. the definition of sexual harassment under this policy,
2. the scope of the MCCCDs education program or activity,
3. how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and
4. how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Decision-makers will receive annual training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

Investigators will receive annual training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

### **39. Revision of this Policy and Procedures**

This policy and procedures supersede any previous policy(ies) addressing Title IX sexual harassment and discrimination. The policy (administrative regulation) will be reviewed and updated as needed by the Title IX Coordinator, in consultation with any other stakeholders deemed necessary by the Title IX Coordinator and upon approval by the Chancellor. MCCCD reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. District legal may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

**This policy and procedures are effective August 14, 2020.**

## **Sexual Discrimination, Harassment, Violence Awareness & Prevention**

**Preventing Sex Discrimination and Harassment** is a mandatory online training course. This course will foster a safe and productive work environment by training employees on what is considered sexual harassment, prevention training, and what to do if they see or experience sexual harassment. This course is required by federal law and will provide information on preventing sex harassment and the federal laws dealing with this topic. Current faculty, employees, and Persons of Interest (POI) must complete the course within the [Employee Learning Center](#). New employees will be required to complete the course within 30 days of start date.

**Preventing Sexual Harassment and Sexual Violence** course is now available to all students. Please check for your self-enrollment link in your Message Center within your Online Student Center via [My.Maricopa.edu](http://My.Maricopa.edu).

### **Bystander Intervention**

MCCCD expects that you will step up and help others in need. This creates a powerful network of students who watch out for each other, show concern for each other's well-being, and help prevent harmful situations from occurring. How and when to intervene are often difficult decisions. Your first concern should always be safety. If you or someone else is in immediate danger, call 911 immediately. Included below are some general tips about intervention when the situation does not pose an immediate threat of danger.

- **Pay attention.** It is easier for you to notice something amiss if you are aware of what is going on in your surroundings. If you get the sense something is wrong, trust your instincts. If you are observing a situation where someone is encouraging another person to become intoxicated with alcohol or other drugs – step in.
- **Take personal responsibility.** People often do not intervene because they believe it is not their responsibility or someone else will help the person. Think about what you would want someone to do for you or for a friend or family member. We want MCCCD to be a safe community and it is important to watch out for one another.
- **Decide how to help.** Start by assessing the situation. Determine whether it is safe for you to intervene on your own, whether you should call others to help

you, and whether to involve the police. Thinking about these questions will help you determine how you can effectively address the situation.

- **De-escalate:** Be calm and respectful.
  - **Offer help:** Signal your concern and willingness to act. It's okay if you are turned down at first or altogether; simply offering help can change the dynamics.
  - **Slow things down:** Give people time to extricate themselves, if that's what they want.
  - **Disrupt the situation:** Intrude. Make a joke. Change the topic. Spill something. Be a third wheel.
- **Early Intervention.** It is important to intervene as soon as you notice someone might be in danger. It is typically safer and more effective to intervene before a situation escalates. You should never intervene if you feel your personal safety is at risk. If you feel unsafe, you should get the police involved so they can address the situation.

**Refer peers to resources.** There are a variety of campus resources that can help someone who has experienced sexual violence. Educate yourself about these resources. This will prepare you to help someone who may disclose sexual violence to you. If someone tells you they have been sexually assaulted, believe them, be there for them, and share information about resources available to help them. For more information, visit [Resources](#).

### **National Sexual Assault Hotline and Website**

Access free, 24/7 local crisis support online or by calling 1-800-856-HOPE (4673). For more information, visit [ohl.rainn.org/online](http://ohl.rainn.org/online).

### **Off-Campus Counselors, Advocates and Resources**

Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with MCCCDC unless the victim requests the disclosure and signs a consent or waiver form.

### **National resources**

- [Abuse in LGBTQ+ Communities](#)
  - 24 Hour Hotline: 1-800-799-7233 (SAFE)
- [National Center on Domestic Violence, Trauma & Health](#)
  - Phone 1-312-726-7020 ext. 2011
- [National Dating Abuse Helpline](#)
  - Phone 1-866-331-9474
- [National Resource Center on Domestic Violence](#)
  - Phone 1800-537-2238

- [Rape, Abuse, and Incest National Network \(RAINN\)](#)
  - 24 Hour Hotline: 1-800-656-HOPE
- [Womenspace National Network to End Violence Against Immigrant Women](#)
  - 24 Hour Hotline: (609) 394-9000

## Local Resources

- [A New Leaf](#)
  - Phone: 480-890-3039
  - Hotline: 1-844-SAFEDVS
- [Arizona Coalition to End Sexual and Domestic Violence](#)
  - Legal advocacy: (602) 279-2980
  - Hours of Operation: 8:30 am 5:00 pm, Monday-Friday
- [Autumn House](#)
  - 24 Hour Crisis Line: (480) 835-5555
- [Chrysalis](#)
  - 24 Hour Hotline: (602) 944-4999
  - Programs and Services: (602) 955-9059
- [Faith House](#)
  - 24 Hour Crisis Line: (623) 939-6798
- [Glendale Family Advocacy Center](#)
  - Hours of Operation: Monday-Friday 7 am to 5 pm
  - Phone: (623) 930-3720
- [Shelter Without Walls](#)
  - Phone (English): (602) 452-4640
  - Phone (Spanish): (602) 534-3087
- [Sojourner Center](#)
  - Crisis Line: (602) 244-0089
- [Southwest Family Advocacy Center](#)
  - Phone: (623) 333-7900
  - Hours of Operation: Monday-Friday 8 am to 5 pm

## Preserving Evidence

When sexual violence such as sexual assault, dating violence, domestic violence, or stalking is alleged, it is important to preserve evidence when possible. Such evidence may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protective order. Physical evidence is best collected within 72 hours of the assault but can be collected up to 120 hours (five days) of the assault. Try to preserve evidence even if you are unsure at the time whether you wish to pursue criminal charges or other actions to address the violence because that will preserve your options for doing so.

The following is a list of tips for preserving evidence:

## **Sexual Assault:**

Evidence of sexual assault can be preserved by not showering or bathing, douching, urinating, brushing your teeth, or laundering, changing or discarding clothing and/or bedding until evidence can be collected. Evidence can also be preserved by saving call records, text messages, social media communications, and other evidence that may assist in an investigation. Every sexual assault survivor has a right to have a free forensic medical examination, which will be administered by a registered nurse who has received advanced training to provide care and treatment to sexual assault survivors.

Even if you are not sure that you want to file a police report, it can be helpful to have any available evidence collected in case you decide to file a report with law enforcement later.

## **Domestic and Dating Violence:**

Not all experiences of domestic or dating violence cause visible injuries. If visible injuries are present, it can be helpful to document them with photographs, if it is safe to do so. It is also important to seek medical attention if possible and safe to do so.

## **Stalking:**

If you have experienced stalking, it can be helpful to an investigation to retain any evidence of that behavior, including documentation of any unwanted communication (written, oral, electronic), posts (such as on social media), gifts, etc.

## **Investigation Process**

Reporting to the police initiates a process designed to determine what happened. The order in which the steps occur may vary slightly between police departments based upon the specifics of the case. The steps involved in reporting are: initial interview of victim; forensic examination, witness interviews, evidence collection (clothing, video, text messages, emails, etc.) and review. For MCCCDCD Police, cases which meet the elements of sexual assault or sex offense, as defined in the Arizona Revised Statutes, will be submitted to the County Attorney's Office for prosecution. For off campus locations, local law enforcement will make the determination to submit the case for prosecution.

Reporting sexual assault, domestic violence, dating violence, or stalking to MCCCDCD Police does not require filing criminal charges. However, it does activate all support systems for the victim, including campus resources. Victims may notify MCCCDCD Police or local law enforcement directly. However, if the victim so elects, a [Title IX Coordinator](#) or a Campus Security Authority will assist the victim in notifying law enforcement authorities.

As part of the criminal justice process in Arizona, the victim is given a document listing their rights under the [Arizona Constitution, Article 2, Section 2.1. \(A\)](#), which preserves and protects the victim's right to justice and due process. It also lists the rights which automatically attach to the victim and a list of rights the victim must request, along with information on victim compensation, orders of protection/injunctions against harassment, and a domestic violence legal advocacy resource with contact information. The victim also receives a Community Resources and Links sheet, which provides telephone numbers and webpage addresses for local resources.

A victim may decline to notify law enforcement, but still take advantage of all other MCCCCD and local support systems. When a student or employee reports to MCCCCD that he or she has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, MCCCCD will provide the student or employee with a written explanation of the student or employee's rights and options.

### **Free Forensic Sexual Exam**

The Federal Government under the Violence Against Women Reauthorization Act requires states which receive federal funding under VAWA, as Arizona does, to provide forensic sexual examinations to all victims regardless of whether police involvement is desired. The forensic sexual exam is always free of charge to the victim of a crime of sexual violence. MCCCCD encourages victims to get the exam to preserve evidence should they later decide to seek prosecution. It may also assist in getting an order of protection.

If a victim chooses to report a crime of sexual violence to the MCCCCD Police Department, the police will assist the victim in contacting a Sexual Assault Response Team Center. However, as noted, a victim may obtain a forensic sexual examination without police involvement. To obtain a free exam, a victim should contact:

### **Sexual Assault Response Team Centers**

#### **Family Advocacy Center**

2120 N. Central Ave. #250  
Phoenix, AZ 85004-1453  
602-534-2120

<https://www.phoenix.gov/humanservices/programs/victims/fac>

#### **Glendale Family Advocacy Center**

4600 W. Glendale Ave.  
Glendale, AZ 85301  
623-930-3720

<http://www.acfan.net/centers/glendale>

**Mesa Family Advocacy Center**

130 N. Robson  
Mesa, AZ 85201  
480-644-4075

<http://acfan.net/centers/mesa-center.htm>

**Salt River Pima Maricopa Indian Community Family Advocacy Center**

10177 East Osborn Rd.  
Scottsdale, AZ 85256  
480-362-5425

<http://www.acfan.net/centers/salt-river-center.htm>

**Scottsdale Family Advocacy Center**

3939 N. Drinkwater Blvd.  
Scottsdale, AZ 85251  
480-312-6300

<https://www.scottsdaleaz.gov/human-services/advocacy-center>

**Southwest Family Advocacy Center**

2333 N. Pebble Creek Pkwy  
Suite A-200  
Goodyear, Az 85395  
623-333-7900

<http://www.acfan.net/centers/southwest-family.htm>

## Orders of protection and injunctions against harassment

Civil court orders are issued in an attempt to prevent continuing acts of violence or harassment. A person who is being victimized has the right to file a petition with a magistrate, justice of the peace, or superior court judge for an order of protection or injunction against harassment.

The relationship of the petitioner and the defendant, as defined in [\[A.R.S. § 13-3601\]](#), determines which order applies for orders issued within Maricopa County.

### Protection Orders

Protection Orders are civil court orders prohibiting a specific person from contacting you such as coming near your home, work site, school, or other locations as listed on the order. Protection orders are based on the relationship you have with the party you are seeking protection from and must be issued by a judge and served by a police officer, deputy sheriff or process server. The protection order will be effective for 12 months from the service date unless voided by the court.



Protection Orders can restrain a defendant from continuing acts of violence and harassment by prohibiting the individual from contacting or coming in contact with you. A protection order can also provide you with legal recourse if the defendant violates the order. Protection Orders cannot resolve landlord/tenant disputes, change custody or visitation orders, or guarantee your safety.

### **Injunction Against Harassment**

An Injunction Against Harassment does not depend upon relationships and is available if the conduct of any person is “Harassment” as defined by law [\[A.R.S. § 13-2921\]](#). In Arizona, harassment is a series of acts (at least two events) over any period of time that is directed at a specific person, and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct, in fact, seriously alarms, annoys, or harasses the person and serves no legitimate purpose.

### **Applying for an Order of Protection or Injunction Against Harassment**













To apply for an order in Maricopa County, the courts developed the Arizona Protective Order Initiation and Notification Tool <https://azpoint.azcourts.gov/>. Through an interview in this portal, you can quickly fill out the forms that you need to ask for an Order of Protection at an Arizona court.













You will need to provide information on what acts of violence or threatening conduct occurred leading you to apply for protection, and addresses to which you do not want the defendant to come. In conjunction, you need to provide the names and relationships of other persons for whom you may request protection, whether the defendant has access to or possesses firearms, the nature of your relationship to the defendant, and whether there are any courts involved in the relationship (divorce, child custody, etc.).

To complete the process for an Order of Protection, you must file your petition with an Arizona court. You will then appear before a Justice of the Peace who will hear your sworn testimony and review evidence. The Justice will decide whether your order will be issued immediately or whether a hearing will be set. There are no fees associated with applying for any of these protection orders at the time of publication of this document.

Once issued by the Justice Court, the order or injunction will be in effect when a private process server, a law enforcement officer, or a constable serves it to the defendant. It remains in effect for one year from the date it is served. If the defendant violates the order or injunction, contact local law enforcement immediately. If you are in physical danger, call 911. Victims are reminded to remain cautious and have a personal safety plan.

## Justice Court Locations Monday - Friday, 8:00 a.m. - 5:00 p.m.

Aqua Fria	Arcadia Biltmore	Arrowhead
<p><b>Court Address:</b> 10420 W. Van Buren St. Avondale, AZ 85323</p> <p><b>Judge:</b> Joe Guzman <b>Phone:</b> (602) 372-8001 <b>Fax:</b> (602) 372-8201  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 620 W Jackson St Phoenix, AZ 85003</p> <p><b>Judge:</b> Leonore Driggs <b>Phone:</b> (602) 372-6300 <b>Fax:</b> (602) 372-6412  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 14264 W. Tierra Buena Lane Surprise, AZ 85374</p> <p><b>Judge:</b> Craig Wismer <b>Phone:</b> (602) 372-2000 <b>Fax:</b> (602) 372-2620  <a href="#">Email this Court</a></p>
<a href="#">View Map</a> <a href="#">View Precinct</a>	<a href="#">View Map</a> <a href="#">View Precinct</a>	<a href="#">View Map</a> <a href="#">View Precinct</a>
Country Meadows	Desert Ridge	Downtown
<p><b>Court Address:</b> 10420 W. Van Buren St. Avondale, AZ 85323</p> <p><b>Judge:</b> Anna Huberman <b>Phone:</b> (602) 372-8000 <b>Fax:</b> (602) 372-8024  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 18380 N. 40th Street Phoenix, AZ 85032</p> <p><b>Judge:</b> Cathy Riggs <b>Phone:</b> (602) 372-7100 <b>Fax:</b> (602) 372-7912  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 620 W. Jackson Phoenix, AZ 85003</p> <p><b>Judge:</b> Enrique Medina Ochoa <b>Phone:</b> (602) 372-6300 <b>Fax:</b> (602) 372-6406  <a href="#">Email this Court</a></p>
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Dreamy Draw	East Mesa	Encanto
<p><b>Court Address:</b> 18380 N. 40th Street Phoenix, AZ 85032</p> <p><b>Judge:</b> Frank Conti Jr <b>Phone:</b> (602) 372-7000 <b>Fax:</b> (602) 372-7911  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 4811 E. Julep Mesa, AZ 85205</p> <p><b>Judge:</b> Keith Russell <b>Phone:</b> (480) 985-0188 <b>Fax:</b> None  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 620 W. Jackson Phoenix, AZ 85003</p> <p><b>Judge:</b> Ken Chevront <b>Phone:</b> (602) 372-6300 <b>Fax:</b> (602) 372-6414  <a href="#">Email this Court</a></p>
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Hassayampa	Highland	Ironwood
<p><b>Court Address:</b> 14264 W. Tierra Buena Lane Surprise, AZ 85374</p> <p><b>Judge:</b> Miles Keegan <b>Phone:</b> (602) 372-2000 <b>Fax:</b> (602) 372-2620  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 55 E. Civic Center Dr. Ste 55 Gilbert, AZ 85296</p> <p><b>Judge:</b> Jordan Ray <b>Phone:</b> (602) 372-8300 <b>Fax:</b> (602) 372-8301  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 209 E. Pima St Gila Bend, AZ 85337</p> <p><b>Judge:</b> Joe Getzwiller <b>Phone:</b> (928) 683-2651 <b>Fax:</b> (928) 683-6412  <a href="#">Email this Court</a></p>
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Kyrene	Manistee	Maryvale
<p><b>Court Address:</b> 201 E. Chicago Street Chandler, AZ 85225</p> <p><b>Judge:</b> Sharron Sauls <b>Phone:</b> (602) 372-3400 <b>Fax:</b> (602) 372-3494  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 14264 W. Tierra Buena Lane Surprise, AZ 85374</p> <p><b>Judge:</b> Donald Watts <b>Phone:</b> (602) 372-2000 <b>Fax:</b> (602) 372-2068  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 10420 W. Van Buren St. Avondale, AZ 85323</p> <p><b>Judge:</b> Andrew Gastelum <b>Phone:</b> (602) 372-8002 <b>Fax:</b> (602) 372-8203  <a href="#">Email this Court</a></p>
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McDowell Mountain	Moon Valley	North Mesa
<p><b>Court Address:</b> 18380 N. 40th Street Phoenix, AZ 85032</p> <p><b>Judge:</b> Michael Reagan <b>Phone:</b> (602) 372-7000 <b>Fax:</b> (602) 372-7910  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 18380 N. 40th Street Phoenix, AZ 85032</p> <p><b>Judge:</b> Deborah Begay <b>Phone:</b> (602) 372-7000 <b>Fax:</b> (602) 372-8025  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 1837 S. Mesa Drive Mesa, AZ 85210</p> <p><b>Judge:</b> Kyle Jones <b>Phone:</b> (602) 372-4900 <b>Fax:</b> (480) 926-7763  <a href="#">Email this Court</a></p>
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North Valley	San Marcos	San Tan
<p><b>Court Address:</b> 14264 W. Tierra Buena Lane Surprise, AZ 85374</p> <p><b>Judge:</b> Gerald Williams <b>Phone:</b> (602) 372-2000 <b>Fax:</b> (602) 372-2066  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 201 E. Chicago Street Chandler, AZ 85225</p> <p><b>Judge:</b> Jay Tibshraeny <b>Phone:</b> (602) 372-3400 <b>Fax:</b> (602) 372-3468  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 201 E. Chicago Street Chandler, AZ 85225</p> <p><b>Judge:</b> Samuel Goodman <b>Phone:</b> (602) 372-3400 <b>Fax:</b> (602) 372-3441  <a href="#">Email this Court</a></p>
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South Mountain	University Lakes	West McDowell
<p><b>Court Address:</b> 620 W. Jackson St Phoenix, AZ 85003</p> <p><b>Judge:</b> Cody Williams <b>Phone:</b> (602) 372-6300 <b>Fax:</b> (602) 372-6410  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 201 E. Chicago Street Chandler, AZ 85225</p> <p><b>Judge:</b> Tyler Kissell <b>Phone:</b> (602) 372-3400 <b>Fax:</b> (602) 372-3414  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 620 W. Jackson Phoenix, AZ 85003</p> <p><b>Judge:</b> Teresa Lopez <b>Phone:</b> (602) 372-6300 <b>Fax:</b> None  <a href="#">Email this Court</a></p>
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West Mesa	White Tank
<p><b>Court Address:</b> 2050 W. University Drive Mesa, AZ 85201</p> <p><b>Judge:</b> Elaissia Sears <b>Phone:</b> (602) 506-8100 <b>Fax:</b> (480) 969-1098  <a href="#">Email this Court</a></p>	<p><b>Court Address:</b> 10420 W. Van Buren St. Avondale, AZ 85323</p> <p><b>Judge:</b> Heidi Owens <b>Phone:</b> (602) 372-8003 <b>Fax:</b> (602) 372-8205  <a href="#">Email this Court</a></p>
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## Emergency Orders of Protection for Domestic Violence or Dating Violence

If the court has closed for business, an Emergency Order of Protection can be granted by a judicial officer in writing, verbally, or telephonically to protect a person who is in imminent danger of domestic or dating violence. Emergency Orders of Protection are obtained through local law enforcement agencies. If you need an emergency order of protection and are in immediate danger, call 911.

The local law enforcement agency will dispatch an officer to review your situation. If appropriate, the officer will contact the court after hours to request the court grant an Emergency Order. If the order is granted, it will be a temporary valid until the close of the next day of court business following the day the Emergency Order was issued. You will need to go to court the very next business day, to complete and file a petition for a permanent order of protection.

### Enforcement of Orders

Any person on MCCCDCD property who has obtained an order of protection or injunction against harassment may contact their college or local police department for enforcement.

### “No Contact” Orders

MCCCDCD administration does not issue orders of protection or injunctions against harassment but may issue “no contact” orders through the Dean of Students Office. If a “no contact” order is deemed appropriate, it will be issued, and the involved parties will be contacted. The stipulations may include, but are not limited to, no contact via phone calls, e-mails, voicemails, text messages, letters, cards, gifts, social networking messages or any other type of correspondence. This also includes both direct communication and indirect communication. i.e., you may not use other people or social networking sites as a means of communication. A “no contact” order is an administrative order. Violations of the “no contact” order are subject to the student disciplinary policy and procedures. You may contact the Dean of Students office at your college to make

the report of the violation. The report will be reviewed by the Dean's Office and a determination made.

### **Campus Sex Crimes Prevention Act**

The Campus Sex Crimes Prevention Act mandates that convicted sex offenders who are required to register under state law must also disclose their association with institutions of higher education when applicable. Specifically affected are those registered sex offenders who attend as students, are employed by or employed at, or volunteer at institutions of higher education. The CSCPA amends the Family Educational Rights and Privacy Act of 1974 to clarify that nothing in FERPA can prohibit an educational institution from disclosing information provided to the institution concerning registered sex offenders.

The Arizona Department of Public Safety has established the Arizona Sex Offender Info Center according to the requirements of [A.R.S. § 13-3827](#). Arizona DPS is responsible for maintaining the site and annually verifying the addresses of registered sex offenders in the State of Arizona. For more information, visit <https://www.azdps.gov/services/public/offender>.

MCCCD Police will compare both the employee and student databases on an annual basis with the state sex offender database to ensure that students and employees are safe from unreported sex offenders. MCCCD Police, will notify the college community of a registered sex offender, as required by law. Notification also can be found on the MCCCD Police website at <https://district.maricopa.edu/consumer-information/sex-offender-information-notification>

### **Sexual Assault and Violence Support Services**

Those seeking support in the wake of a sexual assault, domestic violence, dating violence, stalking, or other forms of abuse can find help from a variety of community organizations.

- **Center Against Sexual Abuse (CASA)** 602-254-6400
- **Empact: 24-Hour Crisis Intervention** 480-921-1006
- **RAINN Sexual Assault Hotline (National)** 800-656-4673
- **National Domestic Violence Hotline** 800-799-7233

## Timely warnings and emergency notifications

### Timely Warnings

Timely warnings are initiated by crimes that have already occurred, but represent an ongoing threat to the campus community. MCCCCD may issue a timely warning for any Clery Act crime committed on its campuses and or Clery Geography, which has been reported to a campus security authority or local law enforcement agency, and that is considered by MCCCCD to represent a serious or continuing threat to students, staff, and/or faculty.

Clery Geography is defined as the core campus boundaries (which includes all district/college owned or controlled property on campus and public property that is within or immediately adjacent to the campus) and on non-campus properties. The MCCCCD Police Department issues timely warnings as soon as the pertinent information is available. Timely warnings are issued to aid in preventing similar crimes, enable people to protect themselves, and may seek information that may lead to an arrest or conviction of an offender.

The MCCCCD Police Department is responsible for determining if a timely warning will be issued once notified a Clery Act crime has been reported to a campus security authority, local law enforcement, or directly to the College Police Department. Timey Warnings are disseminated using a variety of methods to include, but not limited to:

- Rave text messages
- Mass email notifications
- Flyers

When deciding whether to issue a Timely Warning, the primary considerations are (1) the nature of the crime and (2) whether there is a continuing danger that members of the campus community may become victims of a similar or related crime.

These warnings advise the community about violent crimes against persons, a series of crimes against property, or threats to persons or property in an effort to inform the community about potential risks and allow individuals to protect themselves against such risks. Timely Warnings may also provide details of the crime or threat, a description of the suspect (if known), information on who to contact about the investigation, and crime prevention tips.

A Timely Warning Notice will typically include the following, unless issuing any of this information would risk compromising law enforcement efforts:

- Date and time or timeframe of the incident
- Location
- Nature of the crime

- Information that will promote safety and potentially aid in the prevention of similar crimes (crime prevention or safety tips)
- Suspect description(s)
- Police agency contact information
- Other information as deemed appropriate by the Chief or his/her designee

The description of subjects in a case will only be included in the notice if there is a sufficient amount of detail to describe the individual. If the only known descriptors are sex and race, then this information will not be included in the notice.

MCCCD Police works closely with individuals reporting serious crimes to ensure the victim's privacy, while also ensuring the community has adequate information regarding potential risks. The names and identifying information of victims will not be released in a Timely Warning.

### **Emergency Notifications**

The Maricopa County Community College District (MCCCD) is duty-bound to immediately notify the College Community regarding circumstances that pose an imminent threat to health and/or safety. The MCCCD Police Department shall utilize the Emergency Mass Notification system to promptly notify the District and/or local College Community for any significant emergency or dangerous situation involving an immediate threat to the health and/or safety of students, employees or visitors. The only reason MCCCD Police will not immediately issue an emergency mass notification for a confirmed emergency presenting an identified risk to health and/or safety will be under a unique circumstance that would compromise efforts to:

- Assist a victim or victims;
- Contain the emergency;
- Respond to the emergency;
- Otherwise mitigate the emergency

The MCCCD Police Chief or designee will confirm that a significant emergency or dangerous situation exists, determine the emergency notification content, identify the segments of the campus community to receive the notification, and initiate the notification system, unless doing so will, based on the Chief or the designee's professional judgement, compromise efforts to assist a victim or to contain, respond to or otherwise mitigate the emergency. The MCCCD Police Department has the sole authority to issue emergency notifications, as it deems necessary, to maximize public safety.

For an emergency response to fires and ill or injured persons, MCCCD relies upon the municipal Fire Department emergency services in the city where each campus is located. Therefore, the Incident Commander may be a member of the local fire department. They will utilize the Incident Command System but follow their own



agency's policies and procedures while responding to the emergency. An Incident Commander has the authority on scene and should be consulted to determine the content of the notification. There are other local, county, state and federal agencies which may be consulted during an emergency, such as FEMA during a dangerous weather event, or the Public Health Department to confirm a serious virus outbreak.

A determination regarding what segment of the campus community will receive the notification shall be based on the nature, severity, and location of the emergency. The same procedures will be used to notify the larger campus community.

Given the severe consequences that could result, every member of the community is encouraged to report emergencies immediately. Dial 911 to reach police. The police department answering the call will notify the police department with jurisdiction so emergency services can be dispatched. Your first priority is to get to safety; your second priority is to call 911.

### **Notification Procedures**

In the event of a serious incident that poses an immediate threat to members of the campus community, MCCCCD has various systems in place for communicating information quickly. Some or all of these methods of communication may be activated in the event of an immediate threat to the campus community. These methods of communication are:

- Rave text messages
- Mass email notifications
- VOIP phone announcements
- Alertus internal/external speakers (where available)
- Emergency intercoms (where available)
- Fire alarms
- Digital Signage
- Social media
- District/College website

The notification system's purpose is to provide brief and immediate instructions to the campus community and to provide other resources where additional information can be obtained.

### **Community Notifications**

Community Notifications are developed and distributed to the community for security and safety related incidents that do not meet the legal standards or requirements for the distribution of an Emergency Notification or Timely Warning Notice per the Clery Act. Examples of such incidents and situations include:

- A crime or pattern of crimes that are not one of the 15 reportable Clery crimes.
- A crime that occurs outside of the SMCC Clery Geography (the decision to issue a Community Notification for an off-campus crime will be made on a case-by-case basis depending on an assessment of various factors, which include but are not limited to: the nature of the crime, the exact location, the time of the incident, the local police response, and guidance to campus officials and the potential direct effect on the campus community).
- A minor security or safety issue.
- Facilities-related issues that may cause a disruption to one or more campuses.

Community Notifications are typically written by the Chief of Police or designee and are distributed via email and may be distributed to the entire campus community or to a segment of the community that is affected, as deemed appropriate by MCCCCD Police.

### **Emergency Preparedness Plan**

The Emergency Preparedness Plan (EPP) is designed to provide the Maricopa County Community College District (MCCCCD) with a management tool to facilitate a timely, effective, efficient, and coordinated response to a variety of situations including emergencies. It is based upon integrating MCCCCD emergency response resources with those of other jurisdictional emergency response agencies. The colleges and District Office (DO) will typically rely on their local city and other agencies to provide resources for law enforcement, fire, and emergency medical services (EMS).

The EPP uses the National Incident Management System-Incident Command System (NIMS-ICS) for managing major events, emergency situations and even disasters. It is intended to be fully NIMS compliant. The Incident Command System (ICS) is designed to be used for all types of incidents and is applicable to routine day-to-day emergency situations as well as large scale complex disasters. ICS provides a system for managing emergency operations involving a single agency within a single jurisdiction; multiple agencies within a single jurisdiction; and multiple agencies from multiple jurisdictions.

The organizational structure of the ICS may not resemble the day-to-day organization of the college or District Office. Employees may report to other employees to whom they do not usually have a reporting relationship. Furthermore, as the severity of the incident increases, employee assignments may change in the ICS organizational structure. This means that an employee's position in the ICS structure may change during the course of a single incident.

The EPP is part of a larger integrated Emergency Management & Continuity of Operations Program at MCCCCD that focuses on mitigation, preparedness, response, continuity and recovery activities. The Maricopa Emergency Management System ([MEMS](#)) is part of this integrated program.

The EPP is based on the fact that MCCCCD and local governments (e.g., the City of Phoenix, Mesa, Glendale, Avondale, Chandler, Tempe and the Salt River Indian Community) will most likely respond to emergencies that occur on a MCCCCD campus. Operations are designed to protect lives, stabilize the incident, minimize property damage, protect the environment and provide for the continuation and restoration of essential services.

The EPP provides a framework for emergency preparation, response and recovery efforts. Leadership, preparation, good judgment and common sense overall by personnel directing these efforts will determine the effectiveness of the response and outcome. Given the nature of some emergencies, the Incident Commander or Unified Command may alter the ICS structure for more effective response or to accomplish strategic priorities.

The guidelines and procedures included in this plan have utilized the most current information and planning assumptions available at the time of preparation. There is no guarantee in outcome or performance implied by this plan. In an emergency, resources may be overwhelmed and essential services may be delayed, inadequate or in extreme cases not be available at all. Deviation from these guidelines may be necessary given the facts of any particular situation.

## **Emergency Response and Evacuation Procedures**

In the event of an emergency, the College Police Department has the responsibility for responding to and summoning any immediate necessary resources. The district relies upon the municipal fire department in the city where each campus is located. Therefore, during a fire, hazardous materials situation, or medical emergency the Incident Commander may be a member of the local fire department. They will use the Incident Command System but will follow their own agency's policies and procedures while responding to the emergency. There are other local, county, state and federal agencies which may be consulted during an emergency, such as the Public Health Department being asked to confirm a serious virus outbreak.

## **Training Objective**

Training is a vital element of preparedness to ensure college leadership, college police staff, safety coordinators and the CMT is prepared for an effective and timely response during emergencies. Training will occur on a continuing basis with all portions of the plan. The goals of emergency preparedness training, including drills and exercises, include the following:

- Testing and evaluating plans and procedures (announced or unannounced).
- Identifying plan weaknesses.
- Identifying gaps in resources.
- Clarifying roles and responsibilities.

- Training personnel in roles and responsibilities.
- Establishing college community confidence and support.
- Improving interagency/jurisdictional coordination.
- Meeting regulations and requirements.

## **Schedule of Training, Drills and Exercises**

Emergency preparedness training drills and exercises are to be conducted at college campus every semester. Simulated emergency situations allow first responders, employees and students to become familiar with procedures, facilities, evacuation assembly points and communications systems that will actually be used in emergency situations. Training is conducted in several formats:

**Orientation** - scheduled on an ongoing basis for new employees, safety coordinators and crisis management team members. Orientation may include an overview of the college emergency preparedness program; crisis management team roles and responsibilities; and/ or introduction or review of the emergency preparedness plan.

**Drills** – are conducted at each college at least once a calendar year with faculty, staff and students to test a specific operation, function or equipment. Drills are planned in advance, supervised, and coordinated among college first responders and CIMT. Drills may take the form of an evacuation, lockdown, or shelter in place.

**Exercises** – are conducted at each college with first responders, college incident management team members and members of the college community. Individuals or departments perform tasks that would be expected of them in a real emergency. Exercise types include tabletop, functional or full scale. College exercises are coordinated through use of an Exercise Guide and results of the drills / exercises, including corrective action(s) and lessons learned, are documented through the use of an After-Action Report (AAR) and an Improvement Plan.

The information on the AAR should include documentation for each test, a description of the exercise, the date, time and whether it was announced or unannounced.

## **SMCC Drills and Exercises**

### **Evacuation Drills:**

In 2020, SMCC Conducted 1 Fire Evacuation System Test.

### **Lockdown Drill:**

In 2020, SMCC Conducted 1 Lockdown System Test.

## Evacuation Procedures

### Limited Evacuation

District policy requires immediate evacuation when any fire alarm sounds within a building. All students, faculty, staff, and any other individuals within the building must immediately depart the building using available exit routes if safe. All building occupants will follow instructions issued by MCCCCD Police personnel.

Conditions for temporary evacuation of a building or area also include, but are not limited to, incidents of mechanical, electrical, or other facility-related failures, health, safety, and/or environmental issues such as hazardous spills, and other emergency conditions. MCCCCD Police Department, in consultation with other campus offices, will decide if a limited evacuation is warranted.

### Campus-wide Evacuation

For any event that significantly threatens South Mountain Community College, the MCCCCD Police Department in consultation with the College President or designee will determine if a campus-wide evacuation is warranted.

If a decision is made to evacuate a campus building, you will be notified by activation of the Emergency Intercom System, audible/visual fire alarm system (horns and/or white strobe lights), a phone call, text alert, verbally, or by VOIP (some phones can be used as a speaker system) announcement. Once you are notified, evacuation is required.

- If possible, take the most important personal items with you (e.g. medications, keys, purse, and jacket).
- Close doors behind you, but do not lock them.
- Do not use elevators.
- Evacuate the area by using the exits, follow directions, and go to the assigned outdoor evacuation area.
- If you are unable to leave the building, or there is no ground floor access, notify College Police of your situation and tell them what type of assistance you require (e.g. wheelchair user, breathing difficulties, visual impairment).

Once the campus is evacuated, it will be secured and no one will be allowed to re-enter without proper authorization.

The campus will remain closed until the decision to reopen is made by emergency responders and College Administration. Campus re-opening will be broadcasted

through email, text alert, web, local radio and television stations. For more information on what to in an emergency, go to: <https://www.southmountaincc.edu/about/college-police/emergency-preparedness>

## **Special Assistance**

Individuals with disabilities are encouraged to prepare for emergencies ahead of time by discussing their need with appropriate personnel. Employees should discuss questions or concerns about emergencies with their supervisor and/or the [EEO/ADA](#) office. Students should discuss questions or concerns about emergencies with the Disability Resources ([DRS](#)) office on campus.

## **Shelter-in-Place Procedures**

If an incident occurs and the building(s) or areas around you become unstable or unsafe, or if the air outdoors becomes dangerous due to toxic or irritating substances, it may be safer to stay indoors. Leaving the area may expose you to that danger caused by high winds, limited visibility, and respiratory-related issues, to name a few. Thus, to “shelter-in-place” means to “make a shelter” using the building that you are in, and with a few adjustments, this location can be made even safer and more comfortable until it is safe to go outside.

### **Basic “Shelter-in-Place” Guidance**

During an incident, if the building you are in is not damaged and still affords protection, stay inside. If possible, move to an interior room and away from glass or items that might become dangerous flying objects. Stay inside until you are told the area is safe by designated staff or it is obvious the incident has passed and no longer affords protection from the incident. Take your belongings needed for personal care (purse, wallet, medications) as long as it does not slow your exit. Follow the evacuation protocols for your building (close your door, proceed to the nearest exit, and use the stairs instead of the elevators, etc.). Do not remove personal items (e.g., pictures, computer, etc.) Once evacuated, seek shelter at the nearest safe building. Follow all instructions given by first responders if they are already on scene.

### **How You Will Know to “Shelter-in-Place”**

A shelter-in-place notification may come from several sources, including College Police, College employees or other authorities utilizing the colleges’ emergency communications tools such as:

- Rave text messages
- Mass email notifications
- VOIP phone announcements
- Alertus internal/external speakers (where available)

- Emergency intercoms (where available)
- Digital Signage
- Social media
- District/College website
- In person

### **How to “Shelter-in-Place”**

No matter where you are, these basic steps should assist and should be considered unless instructed otherwise by emergency personnel.

1. If you are inside, stay where you are. Collect any emergency shelter-in-place supplies you may need if you must evacuate immediately. Supplies will also include any items you may need if utilities are severed, and you must remain inside for a prolonged period. (e.g., a flashlight, extra batteries, etc.).
2. If you are caught outdoors, move quickly to the nearest undamaged building and take shelter.
3. If possible, your shelter area should be:
  - a. an interior room.
  - b. above ground level.
  - c. without windows or with the least number of windows possible.
4. Shut and lock all windows (tighter seal) and close exterior doors.
5. Turn off air conditioners, heaters, and fans.
6. Close ventilation system vents if able. College staff will turn off the ventilation as quickly as possible.
7. Turn on a radio or TV (if power is still available) and listen for more information about the incident.

### **Security and access to campus buildings and grounds**

As a public community college district, most campus buildings and facilities are open to the public during the day and evening hours, when classes are in session and events are occurring. At other times, College buildings are generally locked and only faculty, staff, and authorized individuals are admitted. Consequently, regardless of the time of day or night, and no matter where you may be on campus, it is important for you to be



alert and aware of your surroundings and exercise personal safety at all times. Do not leave doors propped open or unlocked after hours.

### **Electronic Card Access**

Most campuses utilize an electronic access control system for access to buildings and classrooms. Electronic access data is used strictly for purposes of investigative incident management or may be anonymized for general reporting. It is prohibited for tracking individuals.

If your campus keys/access cards are lost or stolen, report the loss of access cards to IT, the loss of keys immediately to the College Police Department and then to Maintenance and Operations for replacement.

### **Security Maintenance**

Facilities and landscaping are maintained in manner that minimizes hazardous conditions. College Police at SMCC regularly patrol the campus and report malfunctioning lights and other unsafe conditions to Facilities Maintenance and Operations for repair. Other members of the campus community should promptly report hazardous or unsafe conditions to either College Police or Maintenance and Operations.

### **Weapons prohibited on campus**

Arizona State law [A.R.S. § 13-2911](#) provides for the Maricopa County Community College District Governing Board to regulate deadly weapons, which includes firearms, on District campuses. The Maricopa County Community College District does not allow firearms or any deadly weapon on any of its campuses. Police officers do have exemptions from these laws. However, contact the College Police department to ascertain who may have authority to carry a firearm on campus. [\[ADMIN REG 4.6\]](#)

Any person violating the policy shall be ordered to leave the campus. Any person, who refuses to leave, shall be subject to arrest under [A.R.S. § 13-1502](#) Third Degree, Criminal Trespass. Any student/employee violating this policy is also subject to applicable college disciplinary procedures. If a person having a weapon appears dangerous, is acting suspicious, is threatening, or is behaving irrationally, stay away from the individual and call MCCCCD Police at **480-784-0911** or **9-1-1** immediately.

### **Witness a Crime Involving a Weapon?**

If you are a witness to a crime involving a weapon, call 911 immediately. If you see a weapon of any kind on campus, alert the police by contacting the corresponding college police department.

## Reporting hate crimes and incidents

Hate crimes are not separate distinct crimes, but instead involve any traditional criminal offense that is committed against a person or property that is motivated by a victim's actual or perceived race, religion, ethnicity, national origin, gender identity, or sexual orientation. MCCCDC takes a strong stance against hate crimes, violent acts, property damage, intimidation, and threats because of a person's perceived personal characteristics.

In accordance with the First Amendment to the U.S. Constitution, hate groups and individuals have the right to exist, assemble and express their views. However, they do not have the right to break any laws. Any speech that threatens violence or physical harm to specific persons or groups may constitute a crime. Most verbal and written expression is constitutionally protected, so racial slurs or derogatory speech is not enough to be considered a crime.

Hate crimes will not be tolerated or dismissed as "pranks" or "bad behavior." Hate crimes should be reported to the appropriate college departments and organizations so proper follow-through can occur. Immediately report any hate crime incident.

### Witness a Hate Crime?

Reporting hate crime is a key part of stopping such acts. If you or someone you know reports a hate crime, the matter will be taken seriously. A thorough investigation will be conducted and, if evidence warrants, administrative and/or criminal proceedings will follow.

Call or report the hate crime incident to police the corresponding [College Police Department](#) at 480-784-0911.

## Student Code of Conduct

The purpose of this Code is to help ensure a healthy, comfortable and educationally productive environment for students, employees and visitors.

### Article I: Definitions

The following are definitions of terms or phrases contained within this Code:

1. **"Accused student"** means any student accused of violating this Student Conduct Code.
2. **"Appellate boards"** means any person or persons authorized by the college president to consider an appeal from a Student Conduct Board's determination

that a student has violated this Student Conduct Code or from the sanctions imposed by the Student Conduct Administrator. The college president may act as the appellate board.

3. "**College**" means a Maricopa Community College or center.
4. "**College premises**" means all land, buildings, facilities and other property in the possession of or owned, used, or controlled by the college or District.
5. "**College official**" means any person employed by the college or District, performing assigned administrative or professional responsibilities pursuant to this Student Conduct Code. The college president shall designate the college or center official to be responsible for the administration of the Student Conduct Code.
6. "**Complainant**" means any person who submits a charge alleging that a student violated this Student Conduct Code. When a student believes that s/he has been a victim of another student's misconduct, the student who believes s/he has been a victim will have the same rights under this Student Conduct Code as are provided to the complainant, even if another member of the college community submitted the charge itself.
7. "**Day**" means calendar day at a time when college is in session and shall exclude weekends and holidays.
8. "**Disruptive behavior**" means conduct that materially and substantially interferes with or obstructs the teaching or learning process in the context of a classroom or educational setting.
9. "**District**" means the Maricopa County Community College District.
10. "**Faculty member**" means any person hired by the college or District to conduct classroom or teaching activities or who is otherwise considered by the college to be a member of faculty.
11. "**May**" is used in the permissive sense.
12. "**Member of the college community**" means any person who is a student, faculty member, college official or any other person employed by the college or center. A person's status in a particular situation shall be determined by the college president.
13. "**Organization**" means any number of persons who have complied with the formal requirements for college recognition.

14. "**Policy**" is defined as the written regulations of the college and/or District as found in, but not limited to, this Student Conduct Code and Governing Board policy.
15. "**Shall**" is used in the imperative sense.
16. "**Student**" means any person taking courses at the college whether full-time or part-time. Persons who are not officially enrolled for a particular term but who have a continuing relationship with the college are considered "students".
17. "**Student Conduct Administrator**" means a college official authorized on a case by case basis by the college official responsible for administration of the Student Conduct Code to impose sanctions upon students found to have violated this Student Conduct Code. A Student Conduct Administrator may serve simultaneously as a Student Conduct Administrator and the sole member or one of the members of a Student Conduct Board. The college official responsible for administration of the Student Conduct Code may authorize the same Student Conduct Administrator to impose sanctions in all cases.
18. "**Student Conduct Board**" means any person or persons authorized by the college president to determine whether a student has violated this Student Conduct Code and to recommend sanctions that may be imposed when a violation has been committed.
19. "**Threatening behavior**" means any written or oral statement, communication, conduct or gesture directed toward any member of the college community, which causes a reasonable apprehension of physical harm to self, others or property. It does not matter whether the person communicating the threat has the ability to carry it out, or whether the threat is made on a present, conditional or future basis.

## **Article II: Judicial Authority**

1. The college official responsible for administration of the Student Conduct Code shall determine the composition of Student Conduct Board and determine which Student Conduct Administrator, Student Conduct Board, and appellate board shall be authorized to hear each case.
2. The college official responsible for administration of the Student Conduct Code shall develop procedures for the administration of the judicial program and rules for the conduct of hearings that are consistent with provisions of this Student Conduct Code.

3. Decisions made by a Student Conduct Board and/or Student Conduct Administrator shall be final, pending the normal appeal process.

### **Article III: Prohibited Conduct**

#### **1. Jurisdiction of the college**

The Student Conduct Code shall apply to conduct that occurs on college or District premises, or at college- or District-sponsored activities that adversely affects the college community and/or the pursuit of its objectives. Each student shall be responsible for his/her conduct from the time of admission through the actual awarding of a degree, certificate, or similar indicator of completion of a course of study, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if their conduct is not discovered until after a degree is awarded). The Student Conduct Code shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending.

#### **2. Temporary Removal of student**

Disruptive behavior includes conduct that distracts or intimidates others in a manner that interferes with instructional activities, fails to adhere to a faculty member's appropriate classroom rules or instructions, or interferes with the normal operations of the college. Students who engage in disruptive behavior or threatening behavior may be directed by the faculty member to leave the classroom or by the college official responsible for administration of the Student Conduct Code to leave the college premises. If the student refuses to leave after being requested to do so, college safety may be summoned. For involuntary removal from more than one class period, the faculty member should invoke the procedures prescribed in the Student Conduct Code.

#### **3. Conduct – Rules and Regulations**

Any student found to have committed the following misconduct is subject to the disciplinary sanctions outlined in Article IV:

- A. Acts of dishonesty, including but not limited to the following:
  - i. Furnishing false information to any college official or office.
  - ii. Forgery, alteration, or misuse of any college document, record, or instrument of identification.

- iii. Tampering with the election of any college-recognized student organization.
  
- B. Obstruction of teaching, research, administration, disciplinary proceedings, or other college activities, including its public service functions on campus, in clinical settings, or other authorized non-college activities, when the conduct occurs on college premises a faculty member may remove a student from a class meeting for disciplinary reasons. If a faculty member removes a student for more than one class period, the faculty member shall notify the college official responsible for administration of the Student Conduct Code in writing of the problem, action taken by the faculty member, and the faculty member's recommendation. If a resolution of the problem is not reached, the student may be removed permanently pursuant to appropriate due process procedures.
  
- C. Physical abuse, verbal abuse, threats, intimidation, harassment, coercion, conduct which threatens or endangers the health or safety of any person, and/or disruptive behavior as defined in Article II.B above.
  
- D. Attempted or actual theft of and/or damage to property of the college, or property of a member of the college community, or other personal or public property.
  
- E. Failure to comply with direction of college officials or law enforcement officers in the performance of their duties, and/or failure to identify oneself to these persons when requested to do so.
  
- F. Unauthorized possession, duplication, or use of keys to any college premises, or unauthorized entry to or use of college premises.
  
- G. Violation of any college or District policy, rule, or regulation published in hard copy such as a college catalog, handbook, etc. or available electronically on the college's or District's website.
  
- H. Violation of federal, state, or local law.
  
- I. Use, possession, manufacturing, or distribution of illegal or other controlled substances except as expressly permitted by law.

- J. Illegal use, possession, manufacturing, or distribution of alcoholic beverages or public intoxication.
- K. Illegal or unauthorized possession of firearms, explosives, other weapons, or dangerous chemicals on college premises, or use of any such item, even if legally possessed, in a manner that harms, threatens, or causes fear to others, or property damage.
- L. Participation in a demonstration, riot, or activity that disrupts the normal operations of the college and infringes on the rights of other members of the college community; leading or inciting others to disrupt scheduled and/or normal activities within any college building or area.
- M. Obstruction of the free flow of pedestrian or vehicular traffic on college premises, or at college-sponsored or supervised functions.
- N. Conduct that is disorderly, lewd or indecent; breach of the peace; or aiding, abetting or procuring another person to breach the peace on college premises or at functions sponsored by or participated in by the college or members of the academic community. Disorderly conduct includes but is not limited to: any unauthorized use of electronic or other devices or to make an audio or video record of any person while on college or District premises without his/her prior knowledge, or without his/her effective consent or when such a recording is likely to cause injury or distress. This includes, but is not limited to, secretly taking pictures of another person in a gym, locker room, or restroom.
- O. Attempted or actual theft or other abuse of technology facilities or resources, including but not limited to:
  - i. Unauthorized entry into a file, to use, read or change the contents or for any other purpose.
  - ii. Unauthorized transfer of a file.
  - iii. Unauthorized use of another individual's identification and/or password.
  - iv. Use of technology facilities or resources to interfere with the work of another student, faculty member or college official.



- v. Use of technology facilities or resources to send obscene or abusive messages.
- vi. Use of technology facilities or resources to interfere with normal operation of the college technology system or network.
- vii. Use of technology facilities or resources in violation of copyright laws.
- viii. Any violation of the District's technology resource standards.
- ix. Use of technology facilities or resources to illegally download files.

P. Abuse of the Student Conduct system, including but not limited to:

- i. Falsification, distortion or misrepresentation of information before a Student Conduct Board.
- ii. Disruption or interference with the orderly conduct of a Student Conduct Board proceeding.
- iii. Invoking a Student Conduct Code proceeding with malicious intent or under false pretenses.
- iv. Attempting to discourage an individual's proper participation in, or use of, the Student Conduct system.
- v. Attempting to influence the impartiality of the member of a judicial body prior to, and/or during the course of, the Student Conduct Board proceeding.
- vi. Harassment, either verbal or physical, and/or intimidation of a member of a Student Conduct Board prior to, during and/or after a Student Conduct Board proceeding.
- vii. Failure to comply with the sanctions imposed under this Student Conduct Code.

- viii. Influence or attempting to influence another person to commit an abuse of the Student Conduct Code system.
  - ix. Failure to obey the notice from a Student Conduct Board or college official to appear for a meeting or hearing as part of the Student Conduct system.
- Q. Engaging in irresponsible social conduct.
- R. Attempt to bribe a college or District employee.
- S. Stalking behavior, which occurs if a student intentionally or knowingly maintains visual or physical proximity toward another person on two or more occasions over a period of time and such conduct would cause a reasonable person to fear for his or her safety.

#### **4. Violation of Law and College Discipline**

- A. Disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this Student Conduct Code (that is, if both possible violations result from the same factual situation) without regard to pending of civil or criminal litigation. Proceedings under this Student Conduct Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the college official responsible for administration of the Student Conduct Code. Determinations made or sanctions imposed under this Student Conduct Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of college rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.
- B. When a student is charged by federal, state or local authorities with a violation of law, the college will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense is also being processed under this Student Conduct Code, however, the college may advise off campus authorities of the existence of this Student Conduct Code and of how such matters will be handled internally within the college community. The college will cooperate fully with the law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators.

Individual students and faculty members, acting within their personal capacities, remain free to interact with governmental representatives as they deem appropriate.

#### **Article IV: Student Conduct Code Procedures**

##### **1. Charges and Student Conduct Board Hearings**

- A. Any member of the college community may file charges against a student for violations of this Student Conduct Code. A charge shall be prepared in writing and directed to the Student Conduct Administrator. Any charge should be submitted as soon as possible after the event takes place, preferably within thirty (30) days following the incident. Misconduct charges of a sexual nature, including sexual harassment and sexual assault, should be sent to the vice president of student affairs who is the designated Title IX Coordinator at each MCCC college. Title IX protects students from sexual misconduct and other forms of discrimination in connection with all academic, extracurricular, athletic, and other programs sponsored by the college at any college facility or other location. The Title IX Coordinator (or designee) will conduct an investigation that is prompt, thorough, and impartial according to the MCCC sexual harassment complaint process.
- B. The Student Conduct Administrator may conduct a prompt, thorough, and impartial investigation to determine if the charges have merit and/or if they can be disposed of administratively by mutual consent of the parties involved on a basis acceptable to the Student Conduct Administrator. Such disposition shall be final and there shall be no subsequent proceedings. If the charges are not admitted and/or cannot be disposed of by mutual consent, the Student Conduct Administrator will convene the student conduct board. If the student admits violating institutional rules, but sanctions are not agreed to, the hearing shall be limited to determining the appropriate sanction(s).
- C. All charges shall be presented to the accused student in written form. The Student Conduct Administrator will provide written notice of the time, date, and location of the student conduct hearing. The notice will describe the evidence of alleged misconduct, the code provisions violated, and the possible sanctions. The student conduct hearing notice, plus a copy of this code, shall be provided to the student accused of misconduct no less than five (5) workdays before the hearing date. The hearing will be held no more than fifteen (15) workdays after the student has been notified unless the Student Conduct Administrator extends the deadline for good cause in his or her sole discretion.

- D. Hearings shall be conducted by a Student Conduct Board according to the following guidelines, except as provided by Article IV 1.G below:
- i. Student Conduct Board hearings normally shall be conducted in private.
  - ii. The complainant, accused student and their advisors, if any, shall be allowed to attend the entire portion of the Student Conduct Board hearing at which information is received (excluding deliberations). Admission of any person to the hearing shall be at the discretion of the Student Conduct Board and/or its Student Conduct Administrator.
  - iii. In Student Conduct Board hearings involving more than one accused student, the Student Conduct Administrator, in his or her discretion, may permit the Student Conduct Board hearing concerning each student to be conducted either separately or jointly.
  - iv. The complainant and the accused shall have the right to be assisted by any advisor they choose, at their own expense. A party who elects to be assisted by an advisor must notify the Student Conduct Administrator of the name and contact information of the advisor not less than two (2) days before the scheduled hearing. The advisor must be a member of the college community and may not be an attorney. Both the complainant and the accused are responsible for presenting their own information and, therefore, advisors are not permitted to speak or participate directly in any Student Conduct Board hearing before a Student Conduct Board.
  - v. The complainant, the accused student, and the Student Conduct Board may arrange for witnesses to present pertinent information to the Student Conduct Board. The Student Conduct Administrator will try to arrange the attendance of possible witnesses who are members of the college community, if reasonably possible, and who are identified by the complainant and/or accused student at least two days prior to the Student Conduct Board hearing. Witnesses will provide information to and answer questions from the Student Conduct Board. Questions may be suggested by the accused student and/or complainant to be answered by each other or by other witnesses. This will be conducted by the Student Conduct Board with such questions directed to the chairperson, rather than to the witness directly. This method is used to preserve the educational tone of the hearing and to avoid creation of an adversarial environment. Questions of whether potential information will be received shall be resolved in the discretion of the chairperson of the Student Conduct Board.

- vi. The Student Conduct Administrator will present the information he or she received.
  - vii. Pertinent records, exhibits, and written statements may be accepted as information for consideration by a Student Conduct Board at the discretion of the chairperson.
  - viii. All procedural questions are subject to the final decision of the chairperson of the Student Conduct Board.
  - ix. After the portion of the Student Conduct Board hearing concludes in which all pertinent information has been received, the Student Conduct Board shall determine (by majority vote if the Student Conduct Board consists of more than one person) whether the accused student violated the section of this Student Conduct Code which the student is charged with violating.
  - x. The Student Conduct Board's determination shall be made on the basis of whether it is more likely than not that the accused student violated this Student Conduct Code.
- E. There shall be a single verbatim record, such as a tape recording, of all Student Conduct Board hearings before a Student Conduct Board (not including deliberations). The record shall be the property of the District.
- F. No student may be found to have violated this Student Conduct Code because the student failed to appear before a Student Conduct Board. In all cases, the evidence and support of the charges shall be presented and considered.
- G. The Student Conduct Board may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, accused student, and/or other witness during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other means, where and as determined in the sole judgment of the college official responsible for administration of the Student Conduct Code.

## **2. Sanctions**

- A. The following sanctions may be imposed upon any student found to have violated the Student Conduct Code:

- i. **Warning** - a written notice to the student that the student is violating or has violated institutional rules or regulations.
  - ii. **Probation** - a written reprimand for violation of specified rules or regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to violate any institutional rules or regulation(s) during the probationary period.
  - iii. **Loss of Privileges** - denial of specified privileges for a designated period of time.
  - iv. **Restitution** - compensation for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement.
  - v. **Discretionary Sanctions** - work assignments, essays, service to the college, or other related discretionary assignments. (Such assignments must have the prior approval of the Student Conduct Administrator.)
  - vi. **College Suspension** - separation of the student from all the colleges in the District for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
  - vii. **College Expulsion** - permanent separation of the student from all the colleges in the District.
- B. More than one of the sanctions listed above may be imposed for any single violation.
- C. Other than college expulsion, disciplinary sanction shall not be made part of the student's academic record but shall become part of the student's disciplinary record. Upon graduation, the student's disciplinary record may be expunged of disciplinary actions upon the student's application to the Student Conduct Administrator. Cases involving the imposition of sanctions other than suspension or expulsion shall be expunged from the student's confidential record seven (7) years after final disposition of the case.

In situations involving both an accused student(s) (or group or organization) and a student(s) claiming to be the victim of another student's conduct, the records of the process and of the sanctions imposed, if any, shall be considered to be the education records of both the accused student(s) and

the student(s) claiming to be the victim because the educational career and chances of success in the college community of each may be impacted.

D. The following sanctions may be imposed upon groups or organizations:

- i. Those sanctions listed above in Article IV 2. A. 1 through 4.
- ii. Loss of selected rights and privileges for a specified period of time.
- iii. Deactivation - loss of all privileges, including college recognition for a designated period of time.

E. In each case in which a Student Conduct Board determines that a student and/or group or organization has violated the Student Conduct Code, the sanction(s) shall be determined and imposed by the Student Conduct Administrator. In cases in which persons other than, or in addition to, the Student Conduct Administrator have been authorized to serve as the Student Conduct Board, the recommendation of the Student Conduct Board shall be considered by the Student Conduct Administrator in determining and imposing sanctions. The Student Conduct Administrator is not limited to sanctions recommended by members of the Student Conduct Board. Following the Student Conduct Board hearing, the Student Conduct Board and the Student Conduct Administrator shall advise the accused student, group and/or organization (and a complaining student who believes s/he was the victim of another student's conduct) in writing of its determination and of the sanction(s) imposed, if any.

### **3. Emergency Suspension**

If a student's actions pose an immediate threat or danger to any member of the college community or the educational processes, a college official responsible for administering the Student Conduct Code may immediately suspend or alter the rights of a student pending a Student Conduct Board hearing. Scheduling the hearing shall not preclude resolution of the matter through mediation or any other dispute resolution process. The decision will be based on whether the continued presence of the student on the college campus reasonably poses a threat to the physical or emotional condition and well-being of any individual, including the student, or for reasons relating to the safety and welfare of any college property, or any college function. When an emergency suspension is imposed, the student conduct administrator will seek to resolve the complaint at the earliest possible date. This suspension is not a sanction but an effort to protect people and property and prevent disruption of college operations.



In imposing an emergency suspension, the college official responsible for administration of the Student Conduct Code may direct that the student immediately leaves the college premises and may further direct the student not to return until contacted by that official. An accused student shall be in violation of this policy regardless of whether the person who is the object of the threat observes or receives it, as long as a reasonable person would interpret the communication, conduct, or gesture as a serious expression of intent to harm.

#### **4. Administrative Hold**

The Student Conduct Administrator may place a temporary administrative hold preventing an accused student's registration, financial aid award, transcript release, or graduation if it is necessary to secure the student's cooperation in the investigation or compliance with a direction. This hold is not a sanction but a necessary step to resolve the complaint promptly.

#### **5. Academic Consequences**

Violations of the Student Conduct Code can have academic consequences if the violation also constitutes failure to meet standards of performance or professionalism set by the instructor or the program, or if it constitutes cheating, plagiarism, falsification of data, or other forms of academic dishonesty. The instructor may award a failing grade for the assignment or the course in such cases, and the program faculty may decide that the student is ineligible to continue in the program. Academic consequences are determined by the faculty and academic administration and are not dependent on the decisions of the student conduct board, the appeals board, or the student conduct administrator.

#### **6. Appeals Regarding Student Code of Conduct**

- A. A decision reached by the Student Conduct Board judicial body or a sanction imposed by the Student Conduct Administrator may be appealed by accused students or complainants to an Appellate Board within five (5) days of receipt of the decision. Such appeals shall be in writing and shall be delivered to the Student Conduct Administrator.
- B. Except as required to explain on the basis of new information, an appeal shall be limited to the review of the verbatim record of the Student Conduct Board hearing and supporting documents for one or more of the following purposes:
  - i. To determine whether the Student Conduct Board hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the complainant a reasonable opportunity to prepare and present information that the Student Conduct Code was violated and giving the accused student a

reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results.

- ii. To determine whether the decision reached regarding the accused student was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the Student Conduct Code occurred.
- iii. To determine whether the sanction(s) imposed was appropriate to the violation of the Student Conduct Code which the student was found to have committed.
- iv. To consider new information, sufficient to alter a decision or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original Student Conduct Board hearing.

C. If an appeal is upheld by the appellate board, the matter shall be returned to the original Student Conduct Board and Student Conduct Administrator for reopening of the Student Conduct Board hearing to allow reconsideration of the original determination and/or sanction(s). If an appeal is not upheld, the matter shall be considered final and binding upon all concerned.

## **Article V: Interpretation and Revision**

Any question of interpretation regarding the Student Conduct Code shall be referred to the college official responsible for administration of the [Student Conduct Code](#) for final determination.

## **Employment Standards**

The following constitutes grounds for disciplinary action, up to and including termination of any Maricopa County Community College District (MCCCD) employee as outlined by the respective [policy manuals](#):

1. Willful and intentional violation of any state or federal law, applicable ordinance, MCCCD Governing Board policy, or MCCCD administrative regulation that affects the employee's ability to perform his or her job.
2. Making a false statement of or failing to disclose a material fact in the course of seeking employment or re-assignment of position at MCCCD.

3. Willful and intentional commitment of acts of fraud, theft, embezzlement, misappropriation, falsification of records or misuse of MCCCDC funds, goods, property, services, technology or other resources.
4. Conviction of a felony or misdemeanor that adversely affects an employee's ability to perform job duties or has an adverse effect on MCCCDC if employment is continued.
5. Fighting with a fellow employee, visitor, or student, except in self-defense. Committing acts of intimidation, harassment or violence, including (but not limited to) oral or written statements, gestures, or expressions that communicate a direct or indirect threat of physical harm, or other violations of MCCCDC Administrative Regulation 6.21 – Workplace
6. Reporting to work under the influence of alcohol and/or illegal drugs or narcotics; the use, sale, dispensing, or possession of alcohol and/or illegal drugs or narcotics on MCCCDC premises, while conducting MCCCDC business, or at any time which would interfere with the effective conduct of the employee's work for the MCCCDC; the use of illegal drugs; or testing positive for illegal drugs. The exception would include the consumption of alcohol at a reception or similar event at which the employee's presence is clearly within the scope of employment
7. Possessing firearms or other weapons on MCCCDC property, except as may be required by the job or as otherwise permitted by law.
8. Knowing failure of an employee who is authorized to drive MCCCDC vehicles to report to the supervisor, the district Risk Manager, and the manager responsible for authorizing the use of college vehicles, within 48 hours or when reasonable in the event of vacation, sick leave, or other approved time away, any conviction for driving under the influence of alcohol or drugs, moving traffic violations, or drivers' license suspension or revocation that occurs, regardless of whether or not the driver was operating a college or district owned, privately owned, rented or borrowed vehicle, or other violation of Administration Regulation 4.14 – Motor Vehicle Usage.
9. Knowing failure of an employee to maintain an acceptable conditional driving record.
10. Engaging in sexual harassment or other illegal discrimination based on race, color, religion, gender, sexual orientation, gender identity, national origin, citizenship status (including document abuse), age, disability, veteran status or

genetic information, or other violation of MCCCDC Administrative Regulation 5 – Non-Discrimination Policy.

11. Dishonesty or dishonest actions, including but not limited to lying, deceitfulness, or making false statements.
12. Soliciting or accepting a gift, gratuity, bribe, or reward for the private use of the employee, or otherwise using one's position, identification, name, photograph or title for personal gain, or otherwise violating the State of Arizona's conflict of interest laws for public employees or MCCCDC Administrative Regulation 1.18 – Gifts, Gratuities and Unrelated Compensation.
13. Unauthorized possession, use, neglect, misuse, abuse, or destruction of the private property or assets of or another employee that occurs during work time.
14. Willful and intentional violation of MCCCDC's Hiring of Relatives policy or Administrative Regulation 4.18 - Consensual Relationships policy.
15. Providing false testimony; making or publishing a false, vicious or malicious statement concerning other employees, MCCCDC, or its operations; or refusing to provide testimony or information in an investigation when properly required per MCCCDC policy.

### **Statement on Rehiring**

Employees (Board approved and otherwise) who are terminated or non-renewed due to a determination that the employee has violated Maricopa Employment Standards as set forth above, or who resign in lieu of such termination or non-renewal by agreement or otherwise, are not eligible for rehire within the Maricopa County Community College District. Employees will be afforded notice of such a determination and an opportunity to be heard pursuant to the applicable employee policy or administrative regulation.

The Vice Chancellor for Human Resources or designee is responsible for reviewing documented violations of employment standards, establishing procedures for the review of recommended disciplinary action to be taken, and determining whether the recommended disciplinary action is consistent with the documented violations of the employment standards. The Vice Chancellor for Human Resources shall have final authority to recommend disciplinary action under this policy and shall document the rationale for all decisions. To the extent that the recommendation for disciplinary action by the Vice Chancellor for Human Resources or designee differs from the recommendation of the employee's College President or Vice Chancellor or other Chancellor's Executive Council Member, the Chancellor shall be consulted and shall

make the final recommendation on disciplinary action. The Vice Chancellor for Human Resources shall make recommendations that involve the Chancellor.

Quarterly, a summary report shall be submitted to the Governing Board on disciplinary actions taken pursuant to this policy.

### **Whistleblower Protection**

In response to a legislative directive, the Governing Board has adopted the following policy:

1. It is a prohibited personnel practice for an employee who has control over personnel actions to knowingly take an adverse personnel action against an employee in reprisal for disclosing to a public body, pursuant to [A.R.S. § 38-532](#), information that the employee reasonably believes evidences a violation of any law, mismanagement, a gross waste of monies or abuse of authority to a public body. Any District employee found to have committed a prohibited personnel practice is subject to dismissal and a civil penalty of up to five thousand dollars, except that upon a finding that an employee committed a prohibited personnel practice against an employee who disclosed information that the employee reasonably believed evidenced a violation of any law, the employee who knowingly committed the prohibited personnel practice is subject to a civil penalty of up to ten thousand dollars, the employer shall dismiss the employee and the employee is barred from any future employment by the government entity.
2. The following terms shall have the meaning given to them by [A.R.S. § 38-531](#):
  - A. Employee
  - B. Former Employee
  - C. Law Enforcement Officer
  - D. Personnel Action
  - E. Public Body
  - F. Reprisal
3. It shall not be a violation of this policy to take an adverse personnel action towards an employee whose conduct or performance warrants discipline.

For purposes of this administrative regulation, an adverse personnel action is defined as the following:

- A. Termination of employment
- B. Demotion, with or without a salary reduction
- C. Imposition of suspension without pay
- D. Receipt of written reprimand
- E. Failure to appoint, promote or reemploy

- F. An unsupported negative performance evaluation
  - G. Withholding of appropriate salary adjustments
  - H. Involuntary transfer or reassignment
  - I. Elimination of the employee's position absent a reduction in force, reorganization or by reason of a decrease or lack of sufficient funding, monies or workload
  - J. Significant changes in duties or responsibilities which are inconsistent with the employee's salary or grade level
4. An employee or former employee who believes he or she has been subjected to an adverse personnel action based on disclosure of information pursuant to [A.R.S. § 38-532](#) may file a complaint with the Governing Board.
- A. The complaint must be in writing, must set forth the basis for the claim or reprisal, and must be filed with the Assistant to the Governing Board within 10 days of the effective date of the action taken against the complainant. In all instances, except those in which the complaint alleges wrongful conduct by the Chancellor, the Assistant to the Governing Board must forward the complaint to the Chancellor or designee immediately, and in no case more than one business day after receipt of the complaint. If the complaint alleges wrongful action by the Chancellor, the Assistant to the Governing Board shall forward the complaint to the President of the Governing Board, or Secretary, if the President is not available, within one business day.
  - B. In all instances, except those in which the complaint alleges wrongful actions by the Chancellor, the Chancellor or designee shall, within five business days after receipt of a complaint, establish a Whistleblower Hearing Committee (Committee) to hear the complaint.
  - C. In instances in which the complaint alleges wrongful actions by the Chancellor, the Governing Board shall, within five days after receipt of the complaint, name an independent, external Hearing Officer to hear the complaint.
  - D. The Committee shall be composed of three persons not associated with the incident or allegations. The make-up of the Committee shall be as follows: one College President from a college not related to the alleged violation to be named by the Chancellor; one District employee named by the complainant; one District employee named by the individual who is accused of committing a prohibited personnel practice.
  - E. The Committee or Hearing Officer shall make an initial determination of jurisdiction over the subject matter within 10 business days after receipt of the complaint by the Chancellor. The Committee or Hearing Officer shall decide, based upon the contents of the written complaint and any additional

- information the parties desire to submit, whether (1) the complainant did, in fact, disclose information to a public body concerning an alleged violation of law, mismanagement, gross waste of monies or abuse of authority and (2) whether an adverse personnel action as defined herein took place. If the answer to either (1) or (2) is “no,” the Committee or Hearing Officer shall inform the parties that the complaint has been dismissed for lack of jurisdiction.
- F. If the answers to both (1) and (2) in paragraph 5(E) are yes, the Committee or Hearing Officer shall accept jurisdiction and set a hearing date no later than 30 calendar days after receipt of the complaint by the Chancellor.
  - G. The hearing shall be for the purpose of determining of whether a prohibited personnel practice occurred.
  - H. All parties at the hearing may be represented by counsel.
  - I. The hearing will be open to the public except where the complainant requests a confidential hearing. The hearing will not be subject to the technical rules of evidence, except the rule of privilege recognized by the court. Each side will have the opportunity to call witnesses, present evidence, and cross-examine the other party's witnesses. The hearing will be recorded and transcribed upon the request of either party. The requesting party will bear the cost of transcription.
  - J. Within 15 days after the conclusion of the hearing, the Committee or Hearing Officer shall issue findings of fact and a recommended decision, including recommendations as to any appropriate discipline and the amount, if appropriate, of a civil penalty pursuant to A.R.S. § 38-532(C). The civil penalty may not exceed \$5,000.00, except that upon a finding that an employee committed a prohibited personnel practice against an employee who disclosed information that the employee reasonably believed evidenced a violation of any law, the employee who knowingly committed the prohibited personnel practice is subject to a civil penalty of up to ten thousand dollars, the employer shall dismiss the employee and the employee is barred from any future employment by the government entity.
  - K. The findings and recommendations shall be immediately forwarded to the Governing Board. The Governing Board may accept, reject or modify the findings and recommendations.
5. The District shall have Ombudsperson Services that are available to the external (non-employees) community and internal employee community to address complaints and concerns relative to the operations of the Maricopa County Community College District. These services may be staffed by District employees



or may be contracted or both. The District shall also maintain a 24-hour hotline for the submission of complaints and concerns (anonymous or otherwise). These services are not considered to be services of the "public body" as defined in section 2 of this policy; persons seeking whistleblower protection may avail the services of the public body as defined in section 1.

- A. Among the concerns or complaints that may be reviewed by the Ombudsperson are unsolicited, derogatory and anonymous complaints or concerns about employees. These shall not be reviewed separately by the Governing Board.
- B. Quarterly, the Chancellor shall submit to the Governing Board and District Audit and Finance Committee summary information on the number of Ombuds and 24-Hour Hotline complaints in the District. Such report shall protect the identity of Ombuds and 24-Hour Hotline reporters from disclosure. Quarterly, the Chancellor also shall submit to the Governing Board and District Audit and Finance Committee summary information on complaints and concerns submitted to the external and internal Ombudsperson Services. Identities shall be protected from disclosure.

## **MCCCD Policy on Substance Abuse**

### **Drug Free Schools & Communities Act of 1989**

#### **District Policy**

Maricopa Community Colleges supports the Drug Free Schools and Communities Act Amendments of 1989, Public Law 101-226, and complies with all federal, state, and local laws pertaining to controlled substances, including alcohol. The possession, sale, or consumption of an alcoholic beverage in any premises owned and/or leased/rented by the District for approved educational purposes is prohibited.

#### **College Response to Alcohol and Drug Violations**

Besides the sanctions imposed by federal and state courts concerning controlled substance violation(s), the college will respond administratively when the offense involves a student or employee as the offender. Students and employees are subject to applicable District policies and disciplinary procedures. Sanctions may include suspension or expulsion for student offenders or termination of employment for employees.

#### **S-16 Statement on the Arizona Medical Marijuana Act (Proposition 203)**

In 2010, Arizona voters approved the Arizona Medical Marijuana Act (Propositions 203), a state law permitting individuals to possess and use limited quantities of marijuana for

medical purposes. Because of its obligations under federal law, however, the Maricopa Community Colleges will continue to prohibit marijuana possession and use on campus for any purpose.

Under the Drug Free Workplace Act of 1988, and the Drug Free Schools and Communities Act of 1989, "...no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any federal program, including participation in any federally funded or guaranteed student loan program, unless it has adopted and has implemented a program to prevent the use of illicit drugs and abuse of alcohol by students and employees." Another federal law, the Controlled Substances Act, prohibits the possession, use, production, and distribution of marijuana for any and all uses, including medicinal use. This law is not affected by the passage of the Arizona Medical Marijuana Act. Because Maricopa Community Colleges could lose its eligibility for federal funds if it fails to prohibit marijuana, it is exempt from the requirements of the Arizona Medical Marijuana Act. Therefore, Maricopa Community Colleges will continue to enforce its current policies prohibiting the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance on its property or as part of any of its activities.

Employees and students who violate Maricopa Community Colleges policy prohibiting the use or possession of illegal drugs on campus will continue to be subject to disciplinary action, up to and including expulsion from school and termination of employment.

## **Alcohol and Drug Use Prevention**

Maricopa Community Colleges sponsors and/or participates in the following drug prevention activities:

- Counseling services provide individual sessions on the topic of Substance Abuse. When necessary, counselors will provide referral services to community-based agencies.
- Drug and alcohol awareness workshops are offered through Maricopa Community Colleges Fitness Center Wellness Workshops

Campus community members who may have an alcohol or drug problem can also receive assistance by calling:

- Al-Anon at 1-800-356-9996
- American Council on Alcoholism at 1-800-527-5344
- National Institute on Drug Abuse Hotline at 1-800-662-4357
- DRUGHELP at 1-800-378-4435

## **Off-campus Student Organizations**

College Police do not monitor the activities of off-campus student organizations.

## **Crime Statistics**

The Clery Act requires MCCCDC to track and include four general categories of crime statistics:

### **Criminal Offenses**

- Criminal Homicide, including Murder and Non-negligent Manslaughter, and Manslaughter by Negligence.
- Sexual Assault, including Rape, Fondling, Incest and Statutory Rape.
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson

### **VAWA Offenses**

- Domestic Violence
- Dating Violence
- Stalking
- Sexual Assault (which is also a VAWA offense, but is included in the Criminal Offenses category for Clery Act reporting purposes).

### **Hate Crimes**

Any of the offenses listed in the Criminal Offenses category and any of the following offenses if motivated by bias:

- Larceny – Theft
- Simple Assault
- Intimidation
- Destruction/Damage/Vandalism of Property

### **Arrests and Referrals for Disciplinary Action**

Referrals for disciplinary action may result in a disciplinary sanction, administrative action, or educational intervention.

- Weapons – Carrying, Possessing, Law Violations
- Drug Abuse Violations
- Liquor Law Violations

## Crime Statistics Definitions

For purposes of crime statistics reporting, the following definitions apply:

### Criminal Offenses

#### 1. Criminal Homicide

- a. **Murder/Non-negligent Manslaughter** is the willful (non-negligent) killing of one human being by another.
- b. **Negligent Manslaughter** is the killing of another person through gross negligence.

#### 2. Sexual Assault (Sex Offenses)

Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.

- a. **Rape** is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes rape of both males and females.
  - b. **Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - c. **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - d. **Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent.
3. **Robbery** is the taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
  4. **Aggravated Assault** is an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

5. **Burglary** is the unlawful entry of a structure to commit a felony or theft.
6. **Motor Vehicle Theft** is the theft or attempted theft of a motor vehicle.
7. **Arson** is any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

## Hate Crimes

A Hate Crime is a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim.

Under the Clery Act, only the following eight categories of bias are reported:

1. **Race.** A preformed negative attitude toward a group of persons who possess common physical characteristics, e.g., color of skin, eyes, and/or hair; facial features, etc., genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind, e.g., Asians, blacks or African Americans, whites.
2. **Religion.** A preformed negative attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being, e.g., Catholics, Jews, Protestants, atheists.
3. **Sexual Orientation.** A preformed negative attitude toward a group of persons based on their actual or perceived sexual orientation.
4. **Gender.** A preformed negative attitude toward a group of persons based on their actual or perceived gender, e.g., male or female.
5. **Gender Identity.** A preformed negative attitude toward a group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.
6. **Ethnicity.** A preformed negative attitude toward a group of persons whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion), and/or ideology that stress common ancestry.

7. **National Origin.** A preformed negative attitude toward a group of people based on their actual or perceived county of birth.
8. **Disability.** A preformed negative attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age, or illness.

In addition to the Criminal Offenses defined above, the following offenses are included in Clery Act statistics if they are Hate Crimes.

1. **Larceny-Theft** is the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Constructive possession is the condition in which a person does not have physical custody or possession, but is in a position to exercise dominion or control over a thing.
2. **Simple Assault** is an unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
3. **Intimidation** is to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
4. **Destruction/Damage/Vandalism of Property** is to willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

### **VAWA Offenses**

1. **Dating Violence** is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the reporting party's statement and with the consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
2. For the purposes of this definition:
  - Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

- Dating violence does not include acts covered under the definition of domestic violence.
3. **Domestic Violence** is defined as a felony or misdemeanor crime 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 in which the crime of violence occurred;
  - 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 in which the crime of violence occurred.
4. **Stalking** is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- Fear for the person's safety or the safety of others; or
  - Suffer substantial emotional distress.

For the purposes of this stalking definition:

- **Course of conduct** means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- **Reasonable person** means a reasonable person under similar circumstances and with similar identities to the victim.
- **Substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

## **Arrests and Disciplinary Referrals for Violation of Weapons,**

### **Drug Abuse and Liquor Laws**

**Arrest** for Clery Act purposes is defined as persons processed by arrest, citation or summons.

**Referred for disciplinary action** is defined as the referral of any person to any official who initiates an action of which a record is established and which may result in the



imposition of a disciplinary sanction, administrative action, and/or an educational intervention.

1. **Weapons: Carrying, Possessing, etc.**, is defined as the violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices or other deadly weapons. This classification encompasses weapons offense that are regulatory in nature.
2. **Drug Abuse Violations** are defined as the violation of laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs.
3. **Liquor Law Violations** are defined as the violation of state, or local laws, or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness.

## Geographical Definitions

For the purpose of crime statistics reporting, the following geographical definitions apply:

1. **On-Campus Property** is defined as any building, or property owned, or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and any building or property that is within or reasonably contiguous to the area identified in this definition that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or retail vendor).
2. **On-Campus Student Housing Facility** is defined as any student housing facility that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up the campus.  
**(SMCC does not have an on-campus housing facility)**
3. **Non-Campus Property** is defined as any building or property owned or controlled by a student organization that is officially recognized by the institution;

or any building or property owned, or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

4. **Public Property** is defined as public property, including thoroughfares, streets, sidewalks, and parking facilities that is within the campus, or immediately adjacent to and accessible from the campus.

## **Statistical Overview**

The crime statistics in this report have been compiled in accordance with definitions taken from the Federal Bureau of Investigation Uniform Crime Reporting Handbook as required by Clery Act regulations and modified by the Hate Crime Statistics Act and Campus SaVE Act.

The data relates to all reported crimes occurring on South Mountain Community College campus, as well as relevant non-campus property and public property as these terms are defined in the aforementioned Geographical Definitions. Also included are crimes reported to College Police by its officers, the local law enforcement agencies having primary jurisdiction, and other college personnel who have significant responsibility for student and campus activities. Although asked to do so, not all law enforcement agencies responded to or were able to provide statistics as required for Clery Act reporting.

In 2020, MCCCCD students stayed overnight in hotels, campgrounds, while traveling with officially recognized groups and clubs. Letters were sent to the applicable police departments in each jurisdiction, requesting Clery Act data, for these stays which required Clery Act reporting.

If rape, fondling, incest, or statutory rape occurs in the same incident as a murder, MCCCCD will record both the sex offense and the murder in the statistics.

Incidents and arrests occurring in On-Campus Student Housing Facilities are duplicated in the On-Campus totals and are not in addition to them.

For stalking, MCCCCD records a crime statistic every year in which the course of conduct is reported to a local policy agency or a Campus Security Authority. MCCCCD also records each report of stalking as occurring only at the first location within MCCCCD's Clery geography in which a perpetrator engaged in the stalking course of conduct or a victim first became aware of stalking.

The statistics for drug, liquor law, and weapons violations related to actual offenses occurring on campus property.

Violations Referred for Disciplinary Action are the result of alleged criminal offenses, which did not result in an arrest, but were referred to other responsible college officials for administrative investigation and possible disciplinary action, administrative action, or educational intervention.

### **Unfounded Crimes**

Pursuant to the Violence Against Women Reauthorization Act regulations, an institution may withhold, or subsequently remove, a reported crime from its crime statistics in the rare situation where sworn or commissioned law enforcement personnel have fully investigated the reported crime and, based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore “unfounded.” Only sworn or commissioned law enforcement personnel may “unfound” a crime report. The recovery of stolen property, the low value of stolen property, refusal of the victim to cooperate with the prosecution, and the failure to make an arrest do not “unfound” a crime report.

### **SMCC Main Campus Unfounded Crimes**

2020: No unfounded crimes. 2019: No unfounded crimes. 2018: No unfounded crimes.
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### **SMCC Laveen Unfounded Crimes**

2020: No unfounded crimes. 2019: No unfounded crimes. 2018: No unfounded crimes.
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### **SMCC Guadalupe Unfounded Crimes**

2020: 1 Unfounded Auto Theft. (Forgot where they parked.) 2019: No unfounded crimes. 2018: No unfounded crimes.
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## SMCC Main Campus Statistics

	OFFENSE	YEAR	GEOGRAPHIC LOCATION		
			ON- CAMPUS PROPERTY	NON- CAMPUS PROPERTY	PUBLIC PROPERTY
CRIMINAL OFFENSES	Murder/Non-Negligent Manslaughter	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Manslaughter by Negligence	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Rape	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Fondling	2018	0	0	1
		2019	0	0	0
		2020	0	0	0
	Incest	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Statutory Rape	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Robbery	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Aggravated Assault	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Burglary	2018	1	0	0
		2019	1	0	0
		2020	1	0	0
Motor Vehicle Theft	2018	0	0	2	
	2019	0	0	0	
	2020	0	0	0	
Arson	2018	0	0	0	
	2019	0	0	0	
	2020	0	0	0	

**SMCC Main Campus Statistics (continued)**

VAWA OFFENSES	OFFENSE	YEAR	GEOGRAPHIC LOCATION		
			ON- CAMPUS PROPERTY	NON- CAMPUS PROPERTY	PUBLIC PROPERTY
Domestic Violence		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Dating Violence		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Stalking		2018	0	0	0
		2019	0	0	0
		2020	0	0	0

ARRESTS AND DISCIPLINARY REFERRALS	OFFENSE	YEAR	GEOGRAPHIC LOCATION		
			ON-CAMPUS PROPERTY	NON- CAMPUS PROPERTY	PUBLIC PROPERTY
Weapon Law Arrests		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Weapon Law Referrals		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Drug Arrests		2018	0	0	0
		2019	0	0	0
		2020	1	0	0
Drug Referrals		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Alcohol Arrests		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Alcohol Referrals		2018	0	0	0
		2019	0	0	0
		2020	0	0	0

**Hate Crimes**

2020: No hate crimes reported.  
 2019: No hate crimes reported.  
 2018: No hate crimes reported

**SMCC Laveen Statistics**

	OFFENSE	YEAR	GEOGRAPHIC LOCATION		
			ON- CAMPUS PROPERTY	NON- CAMPUS PROPERTY	PUBLIC PROPERTY
<b>CRIMINAL OFFENSES</b>	Murder/Non-Negligent Manslaughter	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Manslaughter by Negligence	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Rape	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Fondling	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Incest	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Statutory Rape	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Robbery	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Aggravated Assault	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Burglary	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Motor Vehicle Theft	2018	0	0	1	
	2019	0	0	0	
	2020	0	0	0	
Arson	2018	0	0	0	
	2019	0	0	0	
	2020	0	0	0	

**SMCC Laveen Statistics (continued)**

VAWA OFFENSES	OFFENSE	YEAR	GEOGRAPHIC LOCATION		
			ON- CAMPUS PROPERTY	NON- CAMPUS PROPERTY	PUBLIC PROPERTY
Domestic Violence		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Dating Violence		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Stalking		2018	0	0	0
		2019	0	0	0
		2020	0	0	0

ARRESTS AND DISCIPLINARY REFERRALS	OFFENSE	YEAR	GEOGRAPHIC LOCATION		
			ON-CAMPUS PROPERTY	NON- CAMPUS PROPERTY	PUBLIC PROPERTY
Weapon Law Arrests		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Weapon Law Referrals		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Drug Arrests		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Drug Referrals		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Alcohol Arrests		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Alcohol Referrals		2018	0	0	0
		2019	0	0	0
		2020	0	0	0

**Hate Crimes**

2020: No hate crimes reported.  
 2019: No hate crimes reported.  
 2018: No hate crimes reported



**SMCC Guadalupe Statistics**

	OFFENSE	YEAR	GEOGRAPHIC LOCATION		
			ON- CAMPUS PROPERTY	NON- CAMPUS PROPERTY	PUBLIC PROPERTY
<b>CRIMINAL OFFENSES</b>	Murder/Non-Negligent Manslaughter	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Manslaughter by Negligence	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Rape	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Fondling	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Incest	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Statutory Rape	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Robbery	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Aggravated Assault	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
	Burglary	2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Motor Vehicle Theft	2018	0	0	0	
	2019	0	0	0	
	2020	0	0	0	
Arson	2018	0	0	0	
	2019	0	0	0	
	2020	0	0	0	

**SMCC Guadalupe Statistics (continued)**

VAWA OFFENSES	OFFENSE	YEAR	GEOGRAPHIC LOCATION		
			ON- CAMPUS PROPERTY	NON- CAMPUS PROPERTY	PUBLIC PROPERTY
Domestic Violence		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Dating Violence		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Stalking		2018	0	0	0
		2019	0	0	0
		2020	0	0	0

ARRESTS AND DISCIPLINARY REFERRALS	OFFENSE	YEAR	GEOGRAPHIC LOCATION		
			ON-CAMPUS PROPERTY	NON- CAMPUS PROPERTY	PUBLIC PROPERTY
Weapon Law Arrests		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Weapon Law Referrals		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Drug Arrests		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Drug Referrals		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Alcohol Arrests		2018	0	0	0
		2019	0	0	0
		2020	0	0	0
Alcohol Referrals		2018	0	0	0
		2019	0	0	0
		2020	0	0	0

**Hate Crime**

2020: No hate crimes reported.  
 2019: No hate crimes reported.  
 2018: No hate crimes reported