

## Sexual Harassment, Discrimination and Assault Procedures

It is the policy of Mitchell Community College (“MCC”) to maintain an environment free from sexual harassment, assault and violence in all of its educational programs and activities. As a recipient of Federal funds, MCC is required to comply with Title IX of the Higher Education Amendments of 1972 (“Title IX”), which prohibits discrimination on the basis of sex in education programs or activities. Sexual Misconduct, as defined below, is a form of sex discrimination prohibited by Title IX.

This policy covers a broad range of behavior that will not be tolerated in the MCC community. Any behavior deemed to constitute Sexual Misconduct will be treated as a serious matter and will subject an individual to appropriate disciplinary actions and/or criminal sanctions.

### 1. DEFINITIONS

**Sexual assault** is any involuntary sexual contact in which a person is threatened, coerced or forced to comply against his/her will. Sexual assault includes all forms of rape, attempted rape and nonconsensual sexual physical contact.

**Rape** is any type of forced intercourse that is perpetrated against the will of a person and may involve physical violence, coercion or the threat of harm to the victim. Rape does not require that a person explicitly say “no” to his or her attacker. Sometimes people are unable to give consent because they are unconscious, asleep or under the influence of alcohol or drugs. The definition of rape also includes, but is not limited to:

1. Acquaintance rape -- involves sexual assault by a non-stranger, which could include a friend, acquaintance, family member, neighbor or co-worker.
2. Date rape -- involves sexual assault by someone the victim has seen or is dating.
3. Acquaintance gang rape – involves sexual assault by more than one person, at least one of whom is known by the victim.

**Sexual harassment** is any unwelcome sexual advance, request for a sexual favor and/or any other verbal or physical conduct of a sexual nature when:

1. Submission or rejection of such conduct is made implicitly or explicitly a term or condition of an individual's employment, academic standing, instruction or education;
2. Submission to or rejection of such conduct by an individual is used as the basis for evaluation in making employment or academic decisions affecting the individual; and/or
3. Such conduct has the purpose or effect of substantially interfering with an individual's employment, academic performance or living conditions by creating any intimidating, hostile or demeaning environment.

Acts that constitute sexual harassment take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to, unwelcome sexual propositions, invitations, solicitations and flirtations; unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene phone calls; unwelcome and inappropriate touching, patting, pinching or obscene gestures.

**Sexual Misconduct** is a broad term encompassing all of the conduct defined in this policy above. Sexual Misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual Misconduct can be committed by men or by women and it can occur between people of the same or different gender.

## **2. TITLE IX COORDINATOR(S)**

Any inquiries, complaints or reports made in connection with this policy should be directed to one of the Title IX Coordinators identified below. These Coordinators will be available to meet with students regarding issues relating to Title IX and this policy.

Jodee Fulton, Title IX Coordinator, MB311; 704-878-4341, [jfulton@mitchellcc.edu](mailto:jfulton@mitchellcc.edu)  
Donavon Kirby, Title IX Co-Coordinator, SSC103I; 704-878-3267, [dkirby@mitchellcc.edu](mailto:dkirby@mitchellcc.edu)  
500 West Broad Street, Statesville, NC 28677;

## **3. REPORTING PERCEIVED SEXUAL MISCONDUCT**

MCC is committed to fostering an environment that promotes prompt reporting of all types of Sexual Misconduct and timely and fair resolution of all complaints and reports. All parties are entitled to fundamental fairness in the handling of complaints. Individuals are encouraged to report any incidents of Sexual Misconduct and to obtain the support and assistance of friends, family and staff in presenting their concerns.

- a. **REPORTS TO MCC:** All reports by students regarding perceived Sexual Misconduct by a student, faculty member, staff member or other member of the MCC community should be made to one of the Title IX Coordinators identified above. While there is no time limit imposed on making reports under this policy, students are encouraged to report alleged Sexual Misconduct immediately in order to maximize MCC's ability to obtain evidence and conduct a prompt and thorough investigation. Failure to promptly report alleged Sexual Misconduct may result in the loss of relevant evidence and may impair MCC's ability to enforce this policy.
- b. **REPORTS TO LAW ENFORCEMENT:** Because Sexual Misconduct may also constitute criminal activity, MCC encourages students to report alleged Sexual Misconduct promptly to law enforcement agencies if appropriate. Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this policy, criminal investigations or reports are not determinative as to whether a violation of this policy has occurred. The filing of a complaint of Sexual

Misconduct under this policy is independent of any criminal investigation or proceeding.

#### **4. CONFIDENTIALITY**

The privacy of individuals who make reports or complaints pursuant to this policy, who are accused of violating this policy or who are otherwise involved in the reporting or investigatory process, will be respected to the fullest extent possible. Likewise, information obtained during the course of MCC's investigation and resolution of possible violations will be handled as confidentially as possible. Title IX requires MCC to investigate and take reasonable action in response to the reported information, abiding by certain reporting obligations. Therefore, complete confidentiality cannot be guaranteed. Reports made to other MCC employees must be referred to the Title IX Coordinators, who can discuss in greater detail issues regarding confidentiality.

#### **5. NO RETALIATION**

MCC prohibits retaliation against any individual who complains of a violation of this policy or assists in providing information about a complaint made in connection with this policy.

#### **6. INTERIM MEASURES**

In all complaints of alleged Sexual Misconduct, MCC may take appropriate interim steps before the final resolution of the complaint to ensure that the parties involved in the complaint or report are sufficiently protected and supported. This may include, without limitation, temporary suspension and directing appropriate MCC officials to alter academic, housing or other arrangements.

#### **7. INVESTIGATING REPORTS OF SEXUAL MISCONDUCT**

MCC will investigate all possible violations of this policy about which MCC knows, regardless of whether a complaint alleging a violation of this policy has been filed and regardless of whether the conduct at issue actually occurred. MCC's ability to investigate in a particular situation, or the extent of an investigation in any given situation, may be affected by any number of factors, including whether the complainant is willing to file a complaint or participate in an investigation, the location where the alleged conduct occurred and MCC's access to information relevant to the alleged or suspected violation of this policy.

Once a Title IX Coordinator has received a report of Sexual Misconduct, the Title IX Coordinator or his or her designee will conduct an investigation with any other MCC official deemed appropriate under the circumstances, including law enforcement.

MCC will strive to complete all investigations within sixty (60) days of the filing of a complaint or the date on which MCC becomes aware of a suspected violation of this policy, unless MCC notifies the parties that additional time is needed to complete the investigation.

In connection with any investigation, all involved individuals are encouraged to provide as much information as possible. An investigation by a Title IX Coordinator or designee typically includes interviews of (1) the complainant, (2) the accused, and (3) any witnesses and other persons who are identified as possibly having some information related to the alleged incidents, and a review of relevant documentation and other evidence.

Any pending criminal investigation or criminal proceeding may have some impact on the timing of MCC's investigation, but MCC will conduct its own investigation as soon as it is practicable under the circumstances. MCC reserves the right to conduct its own investigation prior to the completion of any criminal investigation or criminal proceeding.

At the conclusion of MCC's investigation, the Title IX Coordinator or his or her designee will prepare a written report summarizing the outcome of the investigation and will communicate the outcome to the complainant and the accused.

## **8. RESOLVING REPORTS OF SEXUAL MISCONDUCT**

In accordance with this Policy, MCC is empowered to impose disciplinary sanctions for Sexual Misconduct and any violations of MCC policies and procedures directly related to the alleged Sexual Misconduct or alleged violations of this policy. The imposition of MCC disciplinary action is independent of any action pending or taken in the courts.

### **a. REPORTS INVOLVING STUDENTS**

In matters involving students, where MCC decides that disciplinary proceedings under MCC's Student Code of Conduct and the Student Rights, Responsibilities & Judicial Procedures may be appropriate as a result of the investigation, the investigation report and all supporting documentation and information will be forwarded to the Vice President for Student Services. The Vice President for Student Services will initiate formal proceedings in accordance with these procedures.

Alternatively, if MCC does not initiate formal proceedings on its own volition, either the complaining student or the accused student may request in writing that the investigation report and all supporting documentation and information be forwarded to the Vice President for Student Services and that formal proceedings be initiated. All written requests must provide as much information as possible, including the section of the Student Code of Conduct allegedly violated, and must be submitted within five (5) working days of receiving the determination from the Title IX Coordinator or his or her designee.

At this point, the Vice President for Student Services will initiate steps in accordance with the Student Rights, Responsibilities & Judicial Procedures.

The College President may choose to review the formal proceedings at his discretion.

**b. REPORTS INVOLVING FACULTY, STAFF AND OTHER MEMBERS OF THE MCC COMMUNITY**

In matters where the assailant is an employee of the College, the investigation report and all supporting documentation will be forwarded to MCC's Director of Human Resources and a recommendation will be made regarding appropriate disciplinary action up to and including termination of employment. The complaining student will be informed generally of the responsive action taken. If the student disagrees with the responsive action taken, he or she may appeal to President whose decision will be final as to appropriate responsive action.