

# **Title IX Sex Discrimination and Sex-Based Harassment Procedure - Arizona, Mayo Clinic Health System, Rochester**

This Procedure and accompanying [Policy](#) apply to all locations except Florida, as determined in the discretion of MCCMS. For the Florida location(s), [Title IX Sexual Harassment Policy](#) and accompanying [Title IX Sexual Harassment Complaint Resolution Procedure](#) will apply.

## **Scope**

Applies to the following persons when, on or after August 1, 2024 and in all locations except Florida, Sex Discrimination, including Sex-Based Harassment, occurs within MCCMS's Education Programs or Activities:

- All Mayo Clinic Employees, including Consulting Staff, Administrative Voting Staff, Allied Health Employees, employed Research Temporary Professionals, faculty members, and other Employees;
- Applicants for employment or admission to educational programs;
- All Learners, including recognized Learner or student organizations; and
- Third parties (such as non-employee physician/scientists, patients, alumni, contractors, vendors, and visitors);
- Any other member of Mayo Clinic's community.

This Procedure does not apply to Sex Discrimination that occurs outside the scope of MCCMS's Education Programs or Activities. Nevertheless, MCCMS will address a sex-based hostile environment under its Education Programs or Activities even when conduct alleged to be contributing to the hostile environment occurred outside MCCMS Education Programs or Activities or outside of the United States.

While this Procedure is the exclusive procedure governing Sex Discrimination that occurs within MCCMS's Education Programs or Activities, Reports and Complaints of Sex Discrimination may implicate conduct that violates other MCCMS policies and standards. For example, such Sex Discrimination may be prohibited by the [Learner Professional Conduct Policy](#) if committed by a Learner, the [Unacceptable Conduct Policy](#) if committed by a member of the Consulting/Voting Staff, or the [Mayo Clinic Code of Conduct](#) and other Mayo Clinic policies and standards if committed by any individual identified in the Scope. Additionally, Sex Discrimination that occurs outside the scope of this Policy is governed by the [Learner Professional Conduct Policy](#) if committed by a Learner, the [Unacceptable Conduct Policy](#) if committed by a member of the Consulting/Voting Staff, or the [Mayo Clinic Code of Conduct](#) and other Mayo Clinic policies and standards if committed by an individual identified in the Scope, including but not limited to the [Faculty Misconduct Policy](#).

## **Purpose**

To reinforce that respect, including consideration and courtesy, is a Mayo Clinic Value and expected of everyone. MCCMS is committed to providing a learning and working environment that promotes mutual respect, including one free from harassment and violence. This policy is intended to foster all of Mayo Clinic's Values, including personal responsibility, individual accountability, and civility toward others.

To communicate MCCMS's position on Sexual Harassment and expectations for appropriate behavior in Educational Programs and/or Activities; and to provide all members of the MCCMS community with a framework for addressing, resolving, and remediating Sexual Harassment that may arise in those contexts.

To comply with federal, state, and local laws related to Sexual Harassment in educational programs and activities, including:

- Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681;
- The Violence Against Women Act of 2013 (VAWA); and
- State and local laws concerning Sexual Harassment in educational settings.

## Equipment/Supplies

N/A

## Procedure

- The Title IX Sex Discrimination and Sex-Based Harassment Procedure is intended to be flexible so as to allow MCCMS to fulfill its mission and maintain a safe, non-discriminatory learning and working environment. The Title IX Coordinator or a designee has discretion to deviate from the procedure when deemed appropriate under the circumstances and when consistent with applicable law.

Complainant, or Any Person Reporting Sex Discrimination	<ol style="list-style-type: none"> <li>1. Report Sex Discrimination to the Title IX Coordinator or through the phone numbers below. <ol style="list-style-type: none"> <li>a. Reports may be made in person, by regular mail, telephone, electronic mail, anonymously, or by any other means that results in the Title IX Coordinator receiving the person's Report.</li> <li>b. In-person Reports must be made during normal business hours, but Reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours. Individuals may report Sex Discrimination, including making anonymous reports through the Compliance Hotline at 888-721-5391, or by emailing <a href="#">The Compliance Hotline</a>.</li> <li>c. Reports can also be made through the <a href="#">following numbers</a>.</li> </ol> </li> </ol>
Title IX Coordinator	<ol style="list-style-type: none"> <li>2. Receive a Report of potential Sex Discrimination.</li> </ol> <p><b>Preliminary Assessment</b></p> <ol style="list-style-type: none"> <li>3. Conduct a preliminary assessment to determine: <ol style="list-style-type: none"> <li>a. Whether the conduct, as reported, falls or may fall within the scope of the <a href="#">Title IX Sex Discrimination and Sex-Based Harassment Policy</a> (Policy) and this Procedure (see "Scope"); and</li> </ol> </li> </ol>

	<p>b. Whether the conduct, as reported, constitutes or may constitute Sex Discrimination.</p> <p>4. As part of the preliminary assessment, may take investigative steps to determine the identity of the Complainant, if it is not apparent from the Report.</p> <p>5. If determined that the conduct reported does not and could not fall within the scope of the <a href="#">Policy</a>, and/or does not and could not constitute Sex Discrimination, even if investigated further, close the matter.</p> <p>a. May notify the reporting party if doing so is consistent with Family Educational Rights and Privacy Act (FERPA).</p> <p>b. May refer the report to other Mayo Clinic offices, as appropriate.</p> <p>6. If determined that the conduct reported could fall within the scope of the <a href="#">Policy</a>, and/or could constitute Sex Discrimination, if investigated further, proceed to contact the Complainant.</p> <p><b>Contacting the Parties/Supportive Measures for Both Parties</b></p> <p>7. If a Report is not closed after the preliminary assessment and the Complainant's identity is known, promptly contact the Complainant to discuss the availability of Supportive Measures regardless of whether the Complainant elects to make a Complaint.</p> <p>a. Explain the process for making a Complaint; and advise the Complainant of the investigation and adjudication procedures including the availability of Supportive Measures.</p> <p>b. Provide the Complainant options for filing complaints with local law enforcement and information about resources that are available on campus and in the community.</p> <p>8. Notify the Respondent of a Complaint and advise of the availability of Supportive Measures for the Respondent.</p> <p>a. Offer and make available Supportive Measures to the Respondent in the same manner as offered and available to the Complainant.</p> <p>b. If the Respondent requests such measures prior to being notified of the Complaint, offer and make available Supportive Measures to the Respondent.</p> <p><b>Interim Removal</b></p> <p>9. At any time after receiving a report of Sex Discrimination, may remove a Learner Respondent from one or more of MCCMS's Education Programs or Activities on a</p>
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	temporary basis if an individualized risk and threat analysis determines that an immediate threat to the health or safety of any Learner or other individual arising from the allegations of Sex Discrimination justifies removal.
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<b>Making the Complaint</b>	
<p>Person making Complaint</p> <ul style="list-style-type: none"> <li>• Meets definition of Complainant, or</li> <li>• Has the legal right to act on a Complainant's behalf, or</li> <li>• Is the Title IX Coordinator, or</li> <li>• With respect to Complaints of Sex Discrimination other than Sex-Based Harassment, be a third-party who is participating or attempting to participate in MCCMS's Education Programs or Activities when the alleged Sex Discrimination occurred</li> </ul>	<ol style="list-style-type: none"> <li>1. May make complaint to the Title IX Coordinator in person, by regular mail, or by email. (<a href="#">See above for ways to make Complaint.</a>) <ol style="list-style-type: none"> <li>a. To the extent possible, Complaints should include the following information: the date(s) and time(s) of the alleged conduct; the names of all people involved in the alleged conduct, including possible witnesses; all details outlining what happened; and contact information for the Complainant and/or Reporter.</li> </ol> </li> </ol>
Title IX Coordinator	<ol style="list-style-type: none"> <li>2. Exercise the authority to make a Complaint only after careful consideration of multiple factors suggests there is an immediate and serious threat to the health or safety of the Complainant or other person or where not making a Complaint would prevent MCCMS from maintaining a non-discriminatory environment. See <a href="#">Policy</a> for factors.</li> <li>3. If the Title IX Coordinator makes a Complaint, notify the Complainant prior to doing so and appropriately address</li> </ol>

	<p>reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures.</p> <p>a. In a case where the Title IX Coordinator makes a Complaint, do not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.</p>
<b>Reviewing and Notice of the Complaint</b>	
Title IX Coordinator	<p>4. Receive and review the Complaint.</p> <p>5. Within five days of receiving a Complaint, transmit a written notice to the Complainant and Respondent that includes:</p> <ul style="list-style-type: none"> <li>○ A full copy of the <a href="#">Policy</a>, whether in physical or electronic form.</li> <li>○ Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident, the conduct alleged to constitute Sex Discrimination, and the date and location of the alleged incident, to the extent that information is available to MCCMS.</li> <li>○ A statement that the Respondent is presumed not responsible for the alleged Sex Discrimination until an adjudication of responsibility is made final and that the parties will have an opportunity to present relevant evidence to a trained, impartial decisionmaker prior to such adjudication being made.</li> <li>○ A statement that the party is entitled to receive access to relevant evidence or to an investigative report that accurately summarizes the evidence; if MCCMS provides the party with a summary of the relevant evidence, the parties will have an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.</li> <li>○ Notification to the Complainant and Respondent of MCCMS's prohibitions on Retaliation and false statements specified in the Policy.</li> <li>○ If the case is one involving Sex-Based Harassment and a Learner Complainant or Learner Respondent, a statement that the party may be accompanied by an advisor of their choice, who may be an attorney, and who is permitted to fulfill the role. (See Policy.)</li> </ul> <p>6. May reasonably delay written notice of Complaint if there are legitimate concerns for the safety of any person</p>

	<p>resulting from issuing the written notice of Complaint, so as to address the safety concern appropriately.</p> <ol style="list-style-type: none"> <li>a. Safety concerns that would justify delay of providing the written notice must be based on an individualized safety and risk analysis and not mere speculation or stereotypes.</li> <li>b. In any event, the written notice of Complaint will be provided to a party sufficiently in advance of their initial investigative interview such that the party has sufficient time to prepare.</li> </ol> <p>7. If MCCMS elects, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, provide a supplemental written notice describing the additional allegations to be investigated.</p> <p>8. Evaluate the Complaint and may dismiss if:</p> <ul style="list-style-type: none"> <li>○ Unable to identify the Respondent after taking reasonable steps to do so.</li> <li>○ The Respondent is not participating in or involved in MCCMS's Education Programs or Activities.</li> <li>○ The Complainant voluntarily withdraws any or all of the allegations in the Complaint, in writing, and without the withdrawn allegations, the conduct that remains part of the Complaint, if any, would not constitute Sex Discrimination even if proven.</li> <li>○ After first taking reasonable efforts to clarify the allegations, determine that the conduct alleged in the Complaint, even if proven, would not constitute Sex Discrimination.</li> </ul> <p>9. If dismissed, promptly notify the Complainant of the dismissal and its basis, in writing.</p> <ol style="list-style-type: none"> <li>a. If the dismissal occurs after the Respondent has been notified of the Complaint, simultaneously notify the Respondent of the dismissal and its basis, in writing.</li> <li>b. In the written notice to the Complainant and/or the Respondent, advise the party of their right to appeal the dismissal pursuant to the <a href="#">Appeal</a> procedure.</li> </ol>
<b>Investigation</b>	
Title IX Coordinator/Designee	<p>10. After the written notice of a Complaint is transmitted to the parties, undertake an investigation to gather evidence relevant to the alleged Sex Discrimination, including inculpatory and exculpatory evidence.</p> <ol style="list-style-type: none"> <li>a. Although the length of each investigation may vary depending on the totality of the circumstances, MCCMS strives to complete each investigation</li> </ol>

	within 60 days of the transmittal of the written notice of the Complaint.
Investigator	<p>11. After the evidence gathering phase of the investigation is completed, prepare a written investigation report that summarizes the investigation and append to it all the potentially admissible evidence that is relevant to the allegations in the Complaint, including both inculpatory and exculpatory evidence.</p> <p>12. Notify the Title IX Coordinator that the investigation is complete and transmit the investigation report and its appended evidence to the Title IX Coordinator and to the parties.</p>

<b>Adjudication for all Complaints of Sex Discrimination</b> <ul style="list-style-type: none"> <li>Exclusion: Those involving <a href="#">Sex-Based Harassment with a Learner Complainant or Learner Respondent – see procedure below.</a></li> </ul>	
Title IX Coordinator	<p>1. After receiving investigation report, appoint an adjudicator whose responsibility it will be to adjudicate the Complaint.</p> <p style="padding-left: 40px;">a. The adjudicator may be the investigator or the Title IX Coordinator themselves.</p> <p>2. Transmit the investigation report and its appended evidence to the adjudicator.</p>
Adjudicator	<p>3. Promptly send written notice to the parties notifying them of the adjudicator's appointment; setting a deadline for the parties to submit a written response to the investigation report and its appended evidence which must not be sooner than seven days from the date the investigator transmitted the investigation report; and setting a date and time for each party to meet with the adjudicator separately.</p> <p style="padding-left: 40px;">a. The adjudicator's meetings with the parties will not be held any earlier than 10 days from the date the investigator transmitted the investigation report to the parties.</p>
Parties	<p>4. Within three days of being notified about the adjudicator's identity, may raise concerns, if any, about bias or conflict of interest to the Title IX Coordinator or, if the concerns relate to the Title IX Coordinator as adjudicator, to the OA for the respective school.</p> <p>5. If wish to, respond in writing to investigation report or any part thereof, or any evidence. The response must include:</p> <ul style="list-style-type: none"> <li>○ A statement as to whether the party contends the credibility of the other party or any witness is in dispute; if so, how such credibility dispute is relevant in evaluating any of the allegations in the</li> </ul>



	<p>Complaint; and what questions the party contends should be asked to the party or witness to test credibility.</p> <ul style="list-style-type: none"> <li>○ Any argument that a particular piece or class of evidence should be categorically excluded from consideration during the resolution process based on any one or more of the standards specified in the Inadmissible Evidence and Impermissible Questioning section of the Policy</li> <li>○ Argument regarding whether any of the allegations in the Complaint are supported by a preponderance of the evidence.</li> <li>○ Argument regarding whether any of the allegations in the Complaint constitute Sex Discrimination.</li> </ul> <p>6. Note that while the party may receive assistance in preparing the written response, the written response must be submitted and signed by the party themselves or someone with legal authority to act on their behalf.</p>
Adjudicator	<p>7. Receive and review the parties' written responses to the investigation report.</p> <p>8. Meet separately with each party to ask questions concerning the party's written response, the investigation report, and/or the evidence collected during the investigation, including questions that may bear on credibility.</p> <p>9. May meet with specific witnesses whose credibility is in dispute, and whose testimony is potentially relevant in evaluating any allegations in the Complaint, to pose questions that may bear on credibility.</p>
<i>Deliberation, Determination, and Written Decision</i>	
Adjudicator	<p>10. After meeting with each party and any witnesses whose credibility is in dispute, objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness.</p> <ul style="list-style-type: none"> <li>a. Exclude from consideration any evidence that the adjudicator determines is inadmissible on the grounds explained in the Inadmissible Evidence and Impermissible Questioning section of the <a href="#">Policy</a>.</li> </ul> <p>11. Resolve disputed facts using a preponderance of the evidence (that is, "more likely than not") standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the <a href="#">Policy</a> as alleged in the Complaint.</p>



	<p>12. If determined that the Respondent is responsible for violating the Policy, prior to issuing a written decision, consult with an appropriate MCCMS official with disciplinary authority over the Respondent and such official will determine any discipline to be imposed.</p> <p>a. Prior to issuing a written decision, consult with the Title IX Office to determine whether and to what extent ongoing support measures or other remedies will be provided to the Complainant and other persons, as appropriate.</p> <p>13. After reaching a determination and consulting with the appropriate MCCMS official and Title IX Coordinator, as necessary, prepare a written decision that includes:</p> <ul style="list-style-type: none"> <li>○ A description of the alleged Sex Discrimination.</li> <li>○ Information about the policies and procedures MCCMS used to evaluate the allegations.</li> <li>○ The adjudicator's evaluation of all relevant evidence and determination of whether Sex Discrimination occurred.</li> <li>○ When the adjudicator finds that Sex Discrimination occurred, discipline determined by the appropriate MCCMS official.</li> <li>○ Whether the Complainant, Respondent, or, to the extent appropriate, other persons, will receive any ongoing Supportive Measures or other remedies as determined by the Title IX Coordinator.</li> <li>○ A description of MCCMS's process and grounds for appeal, as specified in <a href="#">Appeal</a>.</li> </ul> <p>14. Transmit the written decision to the Title IX Coordinator and the parties.</p> <p>a. Content in the written decision regarding ongoing Supportive Measures and other remedies for the Complainant, if applicable, may be redacted from the version of the written report shared with the Respondent, to the extent necessary to comply with the <a href="#">Policy</a> and FERPA.</p> <p>b. Transmittal of the written decision to the parties concludes the adjudication process, subject to any right of appeal as specified in <a href="#">Appeal</a>. Any discipline imposed will be stayed pending the completion of any appeal.</p> <p>c. Although the length of time needed to issue the written decision will vary depending on the totality of the circumstances, MCCMS strives to issue the</p>
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	adjudicator's written decision within 45 days of the adjudicator's appointment.
<b>Adjudication of Any Case Involving Sex-Based Harassment with a Learner Complainant or Learner Respondent</b>	
Title IX Coordinator	<ol style="list-style-type: none"> <li>1. After receiving the investigation report, appoint an adjudicator whose responsibility it will be to adjudicate the Complaint during the resolution process. <ol style="list-style-type: none"> <li>a. The adjudicator may be the investigator or the Title IX Coordinator themselves.</li> </ol> </li> <li>2. Transmit the investigation report and its appended evidence to the adjudicator.</li> </ol>
Adjudicator	<ol style="list-style-type: none"> <li>3. Promptly send written notice to the parties notifying the parties of the adjudicator's appointment, setting a date for a pre-resolution conference which must not be sooner than seven days from the date the investigator transmitted the investigation report; directing the parties to submit a pre-resolution submission at least three days before the date of the pre-resolution conference; and setting a date for the resolution process, which must be at least three days after the pre-resolution conference.</li> </ol>
Parties	<ol style="list-style-type: none"> <li>4. Within three days of being notified about the adjudicator's identity, may raise concerns, if any, about bias or conflict of interest to the Title IX Coordinator or, if the concerns relate to the Title IX Coordinator as adjudicator, to the OA for the respective school.</li> <li>5. If do not have an advisor to accompany party at the resolution process, should notify the Title IX Coordinator upon receipt of the written notice so that MCCMS can provide an advisor to attend the Pre-Resolution Conference and any subsequent meetings with the party as specified in the <a href="#">Policy</a> and <a href="#">Resolution Process</a>.</li> </ol>
<b><i>Resolution Process Submission and Conference</i></b>	
Parties	<ol style="list-style-type: none"> <li>6. No later than three days before the date of the pre-resolution conference, submit to the adjudicator a written pre-resolution submission that addresses the following: <ul style="list-style-type: none"> <li>○ Any argument that particular evidence should be categorically excluded from consideration at the resolution process based on the grounds set forth in the Inadmissible Evidence and Impermissible Questioning section of the <a href="#">Policy</a>.</li> <li>○ A list of any witnesses that the party contends should be requested to be a part of the resolution process pursuant to an attendance notice issued by the adjudicator.</li> </ul> </li> </ol>

	<ul style="list-style-type: none"> <li>○ A list of questions the party seeks to pose to the other party and any witnesses.</li> <li>○ Any other accommodations that the party seeks with respect to the pre-resolution conference and/or resolution process.</li> <li>○ The name and contact information of the advisor involved in the pre-resolution conference or the resolution process.</li> </ul>
Adjudicator	<p>7. After review of the parties' pre-resolution submissions, conduct a joint or separate pre-resolution conference(s) with the parties and their advisors.</p> <ul style="list-style-type: none"> <li>a. Conduct individual meetings with the Parties and witnesses to ask questions proposed by the Parties that have been deemed relevant including questions to assess credibility. These meetings will be recorded and/or transcribed.</li> <li>b. At the adjudicator's discretion, the pre-resolution conference may be conducted with the adjudicator, the parties, the advisors, witnesses, and other necessary MCCMS personnel together in the same physical location.</li> </ul> <p>8. During the pre-resolution conference, discuss the resolution process with the parties; address matters raised in the parties' pre-resolution submissions, as the adjudicator deems appropriate; discuss whether any stipulations may be made to expedite the resolution process; discuss the witnesses the parties have requested be served with notices of attendance and/or witnesses the parties plan to be involved in the resolution process; and resolve any other matters that the adjudicator determines, in the adjudicator's discretion, should be resolved before the resolution process completion.</p>
	<p>9. After the pre-resolution conference, transmit notices of attendance to any Employee (including administrator, faculty, or staff) or Learner whose involvement is requested as a witness.</p> <ul style="list-style-type: none"> <li>a. The notice will advise the subject of the specified date and time of the resolution process and advise the subject to contact the adjudicator immediately if there is a material and unavoidable conflict.</li> <li>b. Do not issue a notice of attendance to any witness who is not Personnel or a Learner.</li> </ul>
	<p>10. Provide for video and/or audio recording of any individual meetings with each party (and their advisor) or witnesses,</p>

	and provide copies of the recordings, or transcripts of the recordings, to the parties.
Subject of an attendance notice	11. Should notify any manager, faculty member, or other supervisor, as necessary, if attendance at the resolution process will conflict with job duties, classes, or other obligations.
All such managers, faculty members, and other supervisors	12. Excuse the subject of the obligation, or provide some other accommodation, so that the subject may attend the resolution process as specified in the notice.
<i>Resolution Process</i>	
Adjudicator	<p>13. After the pre-resolution conference, convene and conduct the resolution process pursuant to the MCCMS standards established in the <a href="#">Policy</a>.</p> <p>14. During the resolution process, provide the parties and their advisors access to the investigation report and evidence that was appended to it.</p> <p>15. Provide each party with five days to review the recordings or transcripts of individual meetings and to propose follow-up questions to be posed to the other party and/or witnesses. Following receipt of these questions, meet promptly with parties and/or witnesses to pose follow-up questions, as deemed appropriate by the adjudicator.</p>
<i>Deliberation and Written Decision</i>	
Adjudicator	<p>16. After the resolution process is complete, objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the resolution process, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness.</p> <p style="padding-left: 40px;">a. Exclude from consideration any evidence that was ruled inadmissible at the pre-resolution conference, during the resolution process; or due to a party or witness declining to be involved in the resolution process or to respond to questions deemed relevant and not impermissible, as described in the <a href="#">Policy</a>.</p> <p>17. Resolve disputed facts using a preponderance of the evidence (that is, "more likely than not") standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the <a href="#">Policy</a> as alleged in the Complaint.</p> <p>18. If determined that the Respondent is responsible for violating the <a href="#">Policy</a>, prior to issuing a written decision, consult with an appropriate MCCMS official with</p>

	<p>disciplinary authority over the Respondent and such official will determine any discipline to be imposed.</p> <p>a. Prior to issuing a written decision, consult with the Title IX Coordinator, if not also the adjudicator, who will determine whether and to what extent ongoing support measures or other remedies will be provided to the Complainant and other persons, as appropriate.</p> <p>19. After reaching a determination and consulting with the appropriate MCCMS official and Title IX Coordinator as required directly above, prepare a written decision that will include:</p> <ul style="list-style-type: none"> <li>○ A description of the alleged Sex-Based Harassment.</li> <li>○ Information about the policies and procedures MCCMS used to evaluate the allegations.</li> <li>○ The adjudicator's evaluation of all relevant evidence and determination of whether Sex-Based Harassment occurred.</li> <li>○ When the adjudicator finds that Sex-Based Harassment occurred, discipline determined by the appropriate MCCMS official.</li> <li>○ Whether the Complainant, Respondent, or to the extent appropriate, other persons, will receive any ongoing Supportive Measures or other remedies as determined by the Title IX Coordinator.</li> <li>○ A description of MCCMS's process and grounds for appeal, as specified in <a href="#">Appeal</a>.</li> </ul> <p>20. Transmit the written determination to the parties.</p> <p>a. Transmittal of the written determination to the parties concludes the resolution process, subject to any right of appeal as specified in <a href="#">Appeal</a>.</p> <p>b. Although the length of each adjudication by resolution process will vary depending on the totality of the circumstances, MCCMS strives to issue the adjudicator's written determination within 14 days of the conclusion of the resolution process.</p>
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Sanctions	
Adjudicator	1. If found that a Respondent engaged in prohibited Sex Discrimination, communicate the decision to the appropriate sanctioning official based on the

	Respondent's status (Learner, employee, third party) prior to issuing a written decision.
Appropriate Sanctioning Official	2. Communicate decisions regarding sanctions to the adjudicator to be included in the adjudicator's written decision.

<b>Appeal</b>	
Parties	<ol style="list-style-type: none"> <li>1. Consider whether to Appeal based on a permitted ground for Appeal established in the <a href="#">Policy</a>.</li> <li>2. File an appeal within seven days of the date of receipt of notice of the written decision or dismissal appealed from or, if the other party appeals, within three days of receiving notice that the other party has appealed, whichever is later.</li> <li>3. Submit the appeal in writing in accordance with the <a href="#">Warning, Probation, Dismissal and Appeal Policy</a>. <ol style="list-style-type: none"> <li>a. The appeal must specifically identify the written decision and/or dismissal appealed from, articulate which one or more of the three grounds for appeal are being asserted, explain in detail why the appealing party believes the appeal should be granted, and articulate what specific relief the appealing party seeks.</li> </ol> </li> </ol>
Appeals Committee	<ol style="list-style-type: none"> <li>4. Promptly upon receipt of an appeal, conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. <ol style="list-style-type: none"> <li>a. If determined that the appeal is not timely, or that it fails to invoke a permitted ground for appeal, dismiss the appeal and provide written notice of the same to the parties.</li> </ol> </li> <li>5. If confirmed that the appeal is timely and invokes at least one permitted ground for appeal, provide written notice to the other party that an appeal has been filed and that the other party may submit a written opposition to the appeal within seven days.</li> </ol> <p><b>When proceeding with appeal</b></p> <ol style="list-style-type: none"> <li>6. Promptly obtain from the Title IX Coordinator any records from the investigation and adjudication necessary to resolve the grounds raised in the appeal.</li> <li>7. Upon receipt of any opposition, or after the time for submission of an opposition has passed without one being filed, promptly decide the appeal and transmit a written decision to the parties that explains the outcome of the appeal and the rationale.</li> </ol>

	<p>a. Although the length of each appeal will vary depending on the totality of the circumstances, MCCMS strives to issue the appeal committee's written decision within 21 days of an appeal being filed.</p>
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<b>Informal Resolution</b>	
<ul style="list-style-type: none"> <li>May take place at any time after the parties are provided written notice of the Complaint and before the completion of any appeal.</li> </ul>	
Parties	1. May voluntarily consent, with the Title IX Coordinator's approval, to engage in mediation, facilitated resolution, or other form of dispute resolution the goal of which is to enter into a final resolution resolving the allegations raised in the Complaint by agreement of the parties.
Parties and Title IX Coordinator	2. In consultation, determine the specific manner of the informal resolution process.
Title IX Coordinator	<p>3. Prior to commencing the informal resolution process agreed upon, transmit a written notice to the parties that:</p> <ul style="list-style-type: none"> <li>Describes the allegations if such notice has not already been provided in writing.</li> <li>Describes the parameters and requirements of the informal resolution process to be utilized.</li> <li>Identifies the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, another MCCMS official, or a suitable third-party, provided such person is not the investigator or adjudicator).</li> <li>Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the Complaint.</li> <li>Explains that either party has the right to withdraw from informal resolution and initiate or resume the investigation and adjudication process.</li> <li>Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.</li> <li>Explains potential terms that may be requested or offered in the informal resolution, including restrictions on contact and restrictions on the Respondent's participation in one or more of MCCMS's Education Programs or Activities.</li> </ul>



	<ul style="list-style-type: none"> <li>○ Explains that an informal resolution agreement is binding only on the parties.</li> <li>○ Describes which records will be maintained and shared.</li> <li>○ Explains if MCCMS resumes its investigation and adjudication process, MCCMS will not access, consider, disclose, or otherwise use information, including records, obtained solely through the informal resolution process as part of the investigation or determination of the Complaint.</li> <li>○ Explains that, if MCCMS resumes its investigation and adjudication process, the person facilitating informal resolution could serve as a witness for purposes other than providing information obtained solely through the informal resolution process.</li> </ul>
Each Party	4. After receiving the written notice, must voluntarily provide written consent to the Title IX Coordinator before the informal resolution may begin.
Parties and Title IX Coordinator	5. Participate in informal resolution process. <ul style="list-style-type: none"> <li>a. A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized.</li> </ul>
Title IX Coordinator	6. If the parties reach a resolution through the informal resolution process, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, provide the terms of the agreed resolution in writing and present the resolution to the parties for their written signature.
Parties and Title IX Coordinator	7. Sign the resolution.

## Troubleshooting

N/A

## Procedural Notes

- Capitalized terms have the meaning described in Definitions section.
- Reports can be made through the following numbers.

Location	Contact
Arizona	(480) 342-0576
Florida	(904) 953-2323
Minnesota	
Albert Lea, MN	Emergency 27777 or (507) 377-4774 Non-emergency (507) 668-2100

Austin, MN	Emergency 29999 Non-emergency (507) 440-7786
Mankato, MN	(507) 385-4801 or ext. 44801
Rochester, MN	Downtown location (507) 284-2179 TTD Line (Hearing Impaired) (507) 266-0564 St Marys location (507) 255-5108 TDD Line (Hearing Impaired) (507) 255-1512
Wisconsin	
Eau Claire, WI	(715) 838-3994
La Crosse, WI	(608) 392-3956 (Monday – Friday) (608) 498-1246 (All hours)

## Related Documents

[Appeals Procedure](#) - Arizona, Florida, Rochester (Consulting Staff)

[Appeal Procedure](#) (Allied Health)

[Faculty Misconduct Policy](#)

[Faculty Misconduct Investigation and Appeal Procedure](#)

[Freedom of Expression and Academic Freedom Policy](#)

[Management, Retention, Deletion, and Destruction of Records Management and Mayo Clinic Data Policy](#)

[Records Management and Retention Procedure](#)

Student Resource for Addressing Sexual Misconduct

[Title IX Sex Discrimination and Sex-Based Harassment Policy](#)

## Definitions

**Adverse Treatment Sex Discrimination:** Material, adverse action taken against a person where the motivating factor for the action is Sex-Based except where such action is permitted by law. The adverse action need not be sexual in nature to constitute Adverse Treatment Sex Discrimination.

**Coercion:** Direct or implied threat of force, violence, danger, hardship, or retribution sufficient to persuade a reasonable person of ordinary susceptibility to perform an act which otherwise would not have been performed or acquiesce in an act to which one would otherwise not have submitted. Coercion can include unreasonable and sustained pressure for sexual activity.

Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. A person's words or conduct cannot amount to Coercion for purposes of this policy unless they wrongfully impair the other's freedom of will and ability to choose whether or not to engage in sexual activity.

**Complainant:**

- A Learner or Employee who is alleged to have been subjected to conduct that could be prohibited by the Policy; or
- A person other than a Learner or Employee who is alleged to have been subjected to conduct that could be prohibited by the Policy and who was participating or attempting to participate in MCCMS's Education Programs or Activities when the alleged conduct occurred.

**Complaint:** An oral or written request to MCCMS to initiate an investigation and adjudication of alleged Sex Discrimination pursuant to the Policy and this Procedure.

**Confidential Employee:** An Employee who is not required to report potential Sex Discrimination to the Title IX Coordinator because:

- The Employee's communications are privileged or confidential under federal or state law (e.g., attorneys, doctors and certain other medical providers, psychologists, and counselors). The Employee's status as confidential is limited to information received about Sex Discrimination while the Employee is functioning within the scope of their duties to which the privilege or confidentiality applies.
- MCCMS or Mayo Clinic has designated the Employee as a confidential resource for the purpose of providing services to persons in connection with Sex Discrimination—but if the Employee also has a role or duty not associated with providing these services, the Employee's status as confidential is limited to information received about Sex Discrimination in connection with providing these services.
- The Employee is conducting a MCCMS or Mayo Clinic approved human subjects research study designed to gather information about Sex Discrimination—but the Employee's confidential status is limited to information received while conducting the study.

**Consent:** Words or actions that a reasonable person in the position of the Respondent would understand as agreement to engage in the sexual conduct at issue. A person who is Incapacitated is not capable of giving Consent. Consent cannot be procured through Coercion.

**Dating Violence:** Violence committed by a person –

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- Where the existence of such a relationship will be determined based on a consideration of the following factors:
  - The length of the relationship;
  - The type of relationship; and
  - The frequency of interaction between the persons involved in the relationship.

**Domestic Violence:** Felony or misdemeanor crimes of violence committed by a person who:

- Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the States of Minnesota, Wisconsin, Arizona, and Florida, or a person similarly situated to a spouse of the victim;

- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the States of Minnesota, Wisconsin, Arizona, and Florida.

**Employee:** A person who is paid wages to perform services for MCCMS, and/or Mayo-Clinic-employee, staff physicians, scientists, research temporary professionals, residents, fellows, emeritus staff, and allied health staff when performing duties as part of, or directly engaged in, MCCMS Education Programs or Activities.

**Education Programs or Activities:**

- Activity occurring under any of the operations of MCCMS in the United States, including, but not limited to, in-person and online educational instruction, admissions, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs.
- Activity that occurs on campus or on other property owned or occupied by MCCMS.
- Activity that occurs in a building owned or controlled by a learner organization that is officially recognized by MCCMS.
- Activity that is subject to MCCMS's disciplinary authority.

**FERPA:** The Family Educational Rights and Privacy Act, which is a federal law governing the confidentiality of a Learner's education records and a Learner's right to access, review, and seek amendment of education records.

**Hostile Environment Harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from MCCMS's Education Programs or Activities. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of:

- The degree to which the conduct affected the person's ability to access MCCMS's Education Programs or Activities.
  - The type, frequency, and duration of the conduct.
  - The parties' ages, roles within MCCMS's Education Programs or Activities, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct.
  - The location of the conduct and the context in which the conduct occurred.
  - Other Sex-Based harassment in MCCMS's Education Programs or Activities.

**Incapacitated or Incapacity:** The state where a person does not appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition or disability, or due to a state of unconsciousness or sleep.

**Learner:** Individual enrolled in the Mayo Clinic College of Medicine and Science (collectively includes residents, fellows and students).

**MCCMS Community:** All persons who participate in MCCMS's Education Programs or Activities, including board members, administrators, faculty, staff, other Employees, Learners, volunteers, guests, and contractors.

**Personally Identifiable Information:** Includes but is not limited to: (i) name; (ii) the name of parent/s or other family members; (iii) address or family address; (iv) a personal identifier, such as a social security number, student/learner or employee number, or biometric record; (v) photograph; (vi) telephone number; (vii) other indirect identifiers, such as a date of birth, place of birth, or mother's maiden name; (viii) other information that, alone or in combination, is linked or linkable to a specific individual and that would allow a reasonable person in the Mayo Clinic community, who does not have personal knowledge of the relevant circumstances, to identify the individual with reasonable certainty; and (ix) information requested by a person whom Mayo Clinic reasonably believes knows the identity of an individual to who a protected record relates.

**Policy:** MCCMS's Title IX Sex Discrimination and Sex-Based Harassment Policy.

**Policy or Practice Discrimination:** A MCCMS policy, practice, or condition that has the effect of excluding or limiting a person from participating in MCCMS's Education Programs or Activities on a Sex-Based category or that results in inequitable access to MCCMS's Education Programs or Activities on a Sex-Based category except where such action is permitted by law.

**Pregnancy or Related Conditions:**

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy or lactation;
- Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or their related medical conditions.

**Quid Pro Quo Harassment:** Where an Employee, agent, or other person authorized to provide an aid, benefit, or service of MCCMS explicitly or implicitly conditions the provision of an aid, benefit, or service of MCCMS on a person's participation in unwelcome sexual conduct.

**Relevant:** Related to the allegations of Sex Discrimination that are subject to investigation and adjudication as set forth in the Title IX Sex Discrimination and Sex-Based Harassment Policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged Sex Discrimination occurred, and evidence is Relevant when it may aid an adjudicator in determining whether the alleged Sex Discrimination occurred.

**Report:** An oral or written notification of alleged Sex Discrimination.

**Respondent:** A person who is alleged to have engaged in conduct that could be prohibited by the Policy.

**Retaliation:** Intimidation, threats, Coercion, or discrimination against any person by a Learner, Employee, person authorized by MCCMS to provide aid, benefit or service under MCCMS's Education Programs or Activities, or MCCMS itself, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding, or resolution process under this Policy, or any other appropriate steps taken by MCCMS

in response to conduct prohibited by this Policy. Notwithstanding the foregoing, Retaliation does not include requiring an Employee or person authorized by MCCMS to provide aid, benefit, or service under MCCMS's Education Programs or Activities to participate as a witness in, or otherwise assist with, an investigation, proceeding, or resolution process under this Title IX Sex Discrimination and Sex-Based Harassment Policy. Retaliation includes initiating disciplinary process against a person for a violation of another MCCMS conduct standard that does not involve Sex Discrimination but arises out of the same facts and circumstances of a Complaint or information about potential Sex Discrimination, if initiating such other disciplinary process is done for the purpose of interfering with the exercise of any right or privilege of Title IX. Retaliation can be committed by a peer. Retaliation does not include any conduct that a party has a right to engage in under the U.S. Constitution.

**Sex-Based:** On the basis of:

- Sex,
- Sex stereotypes,
- Sex characteristics,
- Pregnancy or related conditions,
- Sexual orientation, or
- Gender identity.

**Sex Discrimination:** An omnibus term that includes Adverse Treatment Sex Discrimination, Policy or Practice Discrimination, and Sex-Based Harassment.

**Sexual Assault:** Consists of one or more of the following:

- Rape: 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, or by a sex-related object. This definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.
- Fondling: 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 unable to give consent because of their age or because of their temporary or permanent mental or physical incapacity.
- Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Minnesota, Wisconsin, Arizona, and Florida law.
- Sexual intercourse with a person who is under the statutory age of Consent as defined by Minnesota, Wisconsin, Arizona, and Florida law.

**Sex-Based Harassment:** A form of Sex Discrimination and consists of sexual and other Sex-Based harassment that constitutes Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking.

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for their safety or the safety of others; or

- Suffer substantial emotional distress.

**Supportive Measures:** Non-disciplinary, non-punitive individualized measures offered, as appropriate, as reasonably available, without unreasonably burdening a party, and without fee or charge to the Complainant or Respondent to (i) restore or preserve that party's access to MCCMS's Education Programs or Activities, including measures that are designed to protect the safety of the parties or MCCMS's educational environment, or (ii) provide support during MCCMS's investigation and adjudication process under the Title IX Sex Discrimination and Sex-Based Harassment Policy, including any informal resolution process. Examples of Supportive Measures that may be available depending on the facts of a particular matter include: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring for certain areas of campus; restrictions on contact between parties; leaves of absence; voluntary and involuntary changes to class, work, housing, or extracurricular or any other activity; and training and education.

## References

[Family Educational Rights and Privacy Act \(FERPA\), 20 U.S.C. § 1232g; 34 C.F.R. Part 99](#)

[Lactation Policy](#)

[Title IX of the Education Amendments of 1972, 20. U.S.C. §1681](#)

Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, § 304, 127 Stat. 54, 89-92 (2013) (codified at 20 U.S.C.A. § 1092(f)(1)(F)(iii), § 1092(f)(8)(A)-(B))

State laws as cited herein

## Owner

Amy Boyer on behalf of Risk Committee

## Contact

Amy Boyer

## Effective Date for Current Version:

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