

# The Investigative Process

## Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve:

1. interviews with all relevant parties and witnesses;
2. obtaining available, relevant evidence; and
3. identifying sources of expert information, as necessary.

Through the investigative process, all parties have a full and fair opportunity to

1. suggest witnesses and questions,
2. provide evidence and expert witnesses, and
3. fully review and respond to all evidence on the record.

The Title IX Coordinator will prepare the initial Notice of Allegation (NOA). The NOA may be amended with any additional or dismissed allegations

- Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Maricopa County Community College District (MCCCD) pool of Advisors or could be an Advisor from outside the MCCCD. Advisors are able to be present for all meetings attended by their attendee.

The Investigator typically takes the following steps (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Conduct a prompt initial assessment to determine if the allegations indicate a potential policy violation

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting (via email), as well as the expected participants and purpose of the meeting
- Interview all available, relevant witnesses and conduct follow-up interviews, as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigators to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation.
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the MCCC does not intend to rely in reaching a determination, for a ten (10) day review and comment period.

- Receive a meaningful, written response from the parties after their review of the evidence. The parties may elect to waive the full ten days.
- The Investigators will share the responses between the parties for additional responses
- The Investigator(s) may incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- The Investigator will finalize the investigative report and then share it with both parties and their Advisors through secure electronic transmission at least ten (10) business days prior to a hearing.
- The case is forwarded for a hearing. The hearing will last no more than two (2) hours.

### **Witnesses in the Investigation**

Witnesses (as distinguished from the parties) who are employees 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 policy and may warrant discipline.

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

### **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.

Investigations are not complete until both the Complainant and Respondent have had an opportunity to review the investigative file, which includes both the first and the second inspection and review of records has taken place.

Once the investigation is complete, the matter will be referred to a hearing.

### **Filing an External Discrimination Complaint**

The Maricopa County Community College District (MCCCD) encourages students to use the due process under the Title IX Sexual Harassment policy to resolve concerns. Students also have the right to file complaints with appropriate external agencies. No retaliation will be taken against any individual for filing a complaint with an external agency. The following agency accepts harassment/discrimination charges filed by, or on behalf of, students:

#### **Office for Civil Rights**

U.S. Department of Education

Denver Office

Cesar E. Chavez Memorial Building

1244 Speer Boulevard, Suite 310

Denver, Colorado 80204-3582

Phone: 303-844-5695

Fax: 303-844-4303

TDD: 303-844-3417

E-mail: [OCR.Denver@ed.gov](mailto:OCR.Denver@ed.gov)