

# Advisor FAQs

## **1. What does an Advisor do?**

*An Advisor* accompanies a party to a Title IX case to meetings related to the resolution process, advises the party on that process, and conducts cross-examination for the party at the hearing, if one is held.

## **2. Do both the Complainant and the Respondent in a Title IX case get an Advisor?**

Yes, both parties have the right to an Advisor of their choosing. Each party may select whomever they wish to serve as their Advisor, as long as the Advisor is eligible and has no institutionally conflicting roles (such as being a Title IX Coordinator, a supervisor who would implement sanctions in the event of a finding of responsibility, or a witness in the process).

## **3. Who can serve as an Advisor?**

The Advisor may be a friend, family member, attorney, neighbor, or other individual. The Maricopa County Community College District (MCCCD) has a list of trained Advisors who stand ready to serve if selected by a party. Trained Advisors are familiar with the MCCCD resolution process as well as how to best serve in their Advisor role. If a party chooses an Advisor from outside the pool of trained MCCCD Advisors, they would not have been trained and may not be familiar with MCCCD's policies and procedures. Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, but at the hearing stage, the party without an Advisor would be appointed an Advisor to conduct the cross-examination during the hearing. The party can reject the appointed Advisor in favor of selecting their own Advisor, but the party cannot proceed in the hearing without an Advisor present. This is the case because the parties are not permitted to directly cross-examine each other or any witness.

## **4. What is an Advisor's role in the investigative process?**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present. Advisors should help the parties prepare for the

meetings and interviews. Advisors are expected to Advise ethically and with integrity (i.e., not permitting a party to lie or to present false evidence).

The MCCCCD cannot guarantee equal Advisory experiences, meaning that if one party hires an attorney to serve as their Advisor and the other party does not hire an attorney, the MCCCCD is not obligated to provide an attorney Advisor for the other party. Also, if one party selects an Advisor from the MCCCCDs list of Advisors and the other party selects a family member as an Advisor, the MCCCCD Advisor would have received training in order to serve in this capacity while the family member Advisor would not have received such training. The MCCCCD is not obligated to train the family member Advisor.

All Advisors are subject to the same MCCCCD policies and procedures, whether they are attorneys or not. Advisors are expected to advise without disrupting proceedings. Advisors should not address the MCCCCD officials in a meeting or interview unless they are permitted to do so by the investigators—for instance to ask procedural questions. Advisors are not permitted to make presentations or opening/closing statements during any meeting or proceeding (including during a hearing). Advisors are also prohibited from speaking on behalf of the advisee to the Investigator(s) or the Decision-maker (at a hearing), except during the cross-examination at the hearing.

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.

#### **5. What happens if an Advisor breaks the rules outlined in Question #4?**

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended and the Title IX Coordinator will determine how to address the Advisor's non-compliance moving forward. The Title IX Coordinator may prohibit the Attorney from continuing to act in that capacity in future meetings/proceedings. The party will be allowed to select a new Advisor.

#### **6. Is my Advisor allowed access to information collected as evidence during the Title IX case?**

The MCCCCD expects that the parties may wish to have documentation and evidence related to the allegations of Title IX sexual harassment with their Advisors. Parties may share this information directly with their Advisor or other individuals, if they wish. If the party wants the MCCCCD to share documentation and evidence with Advisors, the MCCCCD will provide the party with a FERPA authorization to disclose consent form to sign. The authorization will remain in the Title IX file.

If a party requests that all communication be made through their Attorney Advisor, the MCCCCD will not comply with that request.

#### **7. Can an Advisor schedule a meeting with the Title IX Coordinator?**

It is permitted for an Advisor to request to meet with the Title IX Coordinator in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and MCCCCDs policies and procedures.

#### **8. Can a party change Advisors during the Title IX resolution process?**

Yes. If a party changes Advisors, they party is expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time during the proceedings. 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 the new Advisor at least two (2) days before a meeting where the party and their Advisor is to be present. If a party changes Advisors before the hearing, the party is expected to inform the Title IX Coordinator of that change at least two (2) business days before the hearing.

#### **9. Are there any other expectations of an Advisor?**

The MCCCCD expects Advisors to adjust their schedules to allow them to attend scheduled meetings and proceedings. The MCCCCD may 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, but only if the advisee agrees to the provision.