

Non-Discrimination and Harassment  
Employee

3.30010 DP  
District Procedure

PURPOSE

ADOPTED: March 15, 2012  
REVISED: August 20, 2020

APPLICABILITY

In accordance with board policy, this procedure shall apply when a complaint or allegation of discrimination and harassment is lodged against an employee.

DEFINITIONS

This procedure applies to MCC employees to include individuals who were employees or applicants for employment at the time of the alleged behavior or conduct, contractors, visitors, volunteers, and board members in any aspect of MCC's educational programs, activities or employment that occur on MCC-controlled properties, as well as official offsite MCC-affiliated and sponsored events.

Employee: All persons employed for wages or salary by MCC.

Discrimination: Physical, verbal, or nonverbal conduct directed at an employee on the basis of race, color, religion, sex (including pregnancy, sexual orientation, and gender identity or expression including transgender status), age (40 or older), national origin, disability, genetic information (including family medical history) or any other class protected by law, that adversely affects the employee's employment or status thereof. Examples include hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment. Unfair or unfavorable treatment based on a person's membership, affiliation, perception, and /or association with a particular group, class, or category.

Harassment may include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, and can include offensive remarks about a person's sex.

Race/Color Discrimination: Discrimination that involves treating an employee unfavorably because they are of a certain race, color, or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color or complexion.

Religious Discrimination: Involves treating an employee unfavorably because of their religious beliefs or because that person is married to (or associated with) an individual of a particular religion. An employee is not only protected if they belong to traditional, organized religions, but also others who have sincerely held religious, ethical or moral beliefs.

Sex/Gender discrimination: Involves treating an employee unfavorably because of that person's sex or gender.

Examples include:

- Firing an employee because she is a woman who is married to a woman, but would not do the same to a man married to a woman.
- Demoting an employee because that person was identified as female at birth, but uses masculine pronouns and identifies as a male.

Sexual  
Orientation/Gender  
Identity or Expression

Discrimination: Involves treating an employee unfavorably because of that person's gender identity or expression, including transgender (or transitioning) status, or because of their sexual orientation (i.e. gay, lesbian, bisexual, or queer).

Age Discrimination: Involves treating an employee less favorably because of their age. The Age Discrimination in Employment Act (ADEA) forbids age discrimination against people who are age 40 or older.

National Origin or Ancestry Discrimination: Involves treating an employee unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background.

Pregnancy Status Discrimination: Involves treating an employee unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

Genetic Information Discrimination: Involves treating an employee unfavorably because of their genetic information. Title II of Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits the use of genetic information in making employment decisions, restricts employers and other entities covered by Title II from requesting, requiring, or purchasing genetic information, and strictly limits the disclosure of genetic information.

Veterans Status: A veteran who may be classified as a "disabled veteran," recently separated veteran," "active duty wartime or campaign badge veteran," or an "Armed Forces service medal veteran" are protected from discrimination under the Vietnam Era Veterans' Readjustment Assistance Act of 1974

Physical or Mental Disability: Involves treating an employee unfavorably who has a physical or mental impairment that substantially limits one or more major life activities. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability.

REPORTING Individuals may file a complaint relating to discrimination, harassment, or retaliation by reporting the matter to the Office of Institutional Equity (OCR). Complaints can be made in person, by mail, by telephone, or electronic mail, using the contact information below.

Civil Rights Administrator  
Office of Civil Rights  
Location: 3217 Broadway, Kansas City, MO 64111, Suite 306  
Email: [Institutional.Equity@mcckc.edu](mailto:Institutional.Equity@mcckc.edu)  
Phone: (816) 604-1353

Reports can be made using the online reporting form at <https://mcckc.edu/diversity-inclusion/report-incident.aspx>.

Complaints against the Civil Rights Administrator may be directed to the Chancellor. Complaints made against the Chancellor or Trustee may be directed to the Board President.

Conflicts-of-interest or bias among OCR representatives, investigators, and decision-makers against a single party or parties is prohibited. Should a party feel conflict or bias exists, they should immediately report it to OCR. If the conflict or bias lies with OCR, they should report it directly to the Chancellor. The Chancellor will review or appoint a third party to review the conflict or bias.

Office of the Chancellor  
3200 Broadway

Kansas City, 64111  
Email: [Chancellors.Office@mcckc.edu](mailto:Chancellors.Office@mcckc.edu) Phone:  
(816) 604-1011

CONFIDENTIALITY  
AND SUPPORTIVE  
MEASURES

Discrimination and harassment complaints will be handled discreetly but confidentiality or anonymity cannot be guaranteed because the college must investigate complaints of discrimination, harassment and retaliation to maintain a safe environment.

If the complainant does not wish for their name to be shared or does not wish for an informal or informal investigation to take place, the complainant may make such a request. The request will be evaluated in light of the duty to ensure the safety of the campus and comply with federal law. Cases that indicate patterns, predation, threat, weapons, and/or violence, lessen the likelihood of full confidentiality or anonymity.

In cases where the complainant requests confidentiality and the circumstances allow the college to honor that request, the college will offer supportive measures, but will not otherwise pursue informal or formal action, as requested if able. These remedies (offered to complainants and respondents) may include, but are not limited to:

- Referral to the Employee Assistance Program (benefit-eligible employees)
- Providing campus escorts
- Providing transportation accommodations
- Altering work schedules
- Implementing contact limitations between the parties
- Emergency removal provisions

MCC has the authority to determine which supportive measures are necessary and appropriate and will maintain documentation related to said accommodations. The college will maintain as confidential any accommodations or supportive measures, provided that confidentiality does not impair the institution's ability to provide the accommodations or supportive measures.

REPORTING AND  
RESPONSE

All employees are expected to immediately report actual or suspected discrimination, harassment or retaliation to OCR or their supervisor no later than three (3) calendar days. An employee who fails to reasonably report in the timeframe provided and/or intentionally tries to conceal incidents of this nature may be subject to disciplinary action.

Within three (3) calendar days of receiving a report or complaint of harassment, discrimination, or other prohibited conduct under this policy, the individual (if not OCR) who received the report or complaint will notify OCR of the allegation(s); the time, date, and location of the incident; and the identity of the involved parties.

REVIEW

Upon receipt of a complaint, a preliminary review will be conducted. If it is determined that there is sufficient evidence to support that a policy violation occurred, the complaint will proceed under the appropriate process. If there is insufficient evidence to support that a policy violation occurred, the complaint will be closed with no further action and may be referred to another department and/or administrator (e.g., Human Resources).

INFORMAL PROCESS

The purpose of the informal process is to review the complaint and constructively resolve the issue to come to a mutually acceptable agreement. If both parties voluntarily agree in writing to cooperate, OCR or designee will facilitate and monitor the conversation. The conversations can take place in-person, through online, telephone conferencing, or email.

If the complainant requests to pursue an informal process investigation into the complaint, within three (3) calendar days, OCR or designee will notify the complainant and respondent in writing that the informal process has been initiated – both parties will have the opportunity to provide any relevant information.

The informal process may result in solutions such as asking the respondent to modify or stop the behavior, separating the complainant and respondent, or reaching a mutually acceptable agreement. However, this informal will not result in formal disciplinary action against the respondent without a formal process. After a remedy is reached, OCR or designee will notify both parties in writing of the agreement. OCR or designee will monitor the remedy and may inform other appropriate administrators (e.g., supervisors, Human Resources, Department Chairs, Police Department) to assist with monitoring.

If informal efforts are unsuccessful, the formal resolution process may be initiated. Either party has the right to end the informal process and begin the formal process at any time.

FORMAL PROCESS

The purpose of the formal resolution process is to formally investigate reports and claims of discrimination, harassment, and retaliation to address inquiries and coordinate the college's compliance efforts regarding such instances. The formal resolution process may result in formal disciplinary action against the respondent after thorough investigation using the preponderance of evidence standard.

If the complainant wishes to pursue a formal investigation, and provides the request in writing, OCR or designee will appoint a trained investigator(s) to conduct the preliminary investigation. Within three (3) calendar days of determining that a formal process should proceed, the parties will be notified in writing.

All investigations will be prompt, adequate, reliable, and impartial. The investigation will entail interviews with all relevant parties, witnesses, and procurement of evidence.

The following process will be implemented:

- OCR or designee will review the report or complaint to determine the identity of the complainant (if not self-reported); contact the complainant to discuss the incident and inform them of available resources and share rights and options (internal and external). Initiate any necessary interim supports and remedies, in coordination with Human Resources.
- Both parties will be notified in writing within three (3) calendar days of that decision and provided a detailed statement of the complaint. The assigned investigator(s) will proceed with the investigation, completing the investigative

report fairly, summarizing all relevant evidence, to the Associate Vice Chancellor of Human Resources/Chief Human Resource Officer (CHRO) or designee.

- The CHRO or designee will review and render a decision in writing to both parties, also providing the investigative report. Both parties have the right to provide comments on the investigative report.
- Within five (5) calendar days of receipt of the decision of the CHRO or designee, either the complainant or respondent may appeal the determination in writing to the Chancellor. Acceptable basis for an appeal is limited to the following conditions:
  - The appearance of new evidence, unavailable or dismissed during the original hearing or investigation that could substantially impact the outcome of the matter. A summary of this new evidence and its potential impact must be included;
  - A procedural irregularity occurred that impacted the outcome of the (i.e., material deviation from established procedures);
  - The OCR representative, investigator, or decision-maker had a conflict of interest or bias that affected the outcome of the matter.
- Within ten (10) calendar days of receipt of the appeal request, the Chancellor or designee will review the report, investigation materials, and determination. The Chancellor will determine the outcome and communicate to both parties in writing.
- The Chancellor's or designee's decisions are final, and no further appeal is available.

The determination regarding responsibility becomes final either on the date both parties are provided a written decision of the result of the appeal if an appeal is filed, or if an appeal is not filed, the date on which the appeal has expired.

**TIMELINES** Complaints generally will be resolved within seventy (70) calendar days of the filing of the complaint. In some cases, there may be a need to extend this timeframe; the parties will be notified of any delays with explanation, including but not limited to the schedule and availability of witnesses, holidays, semester breaks, and non-contract days for faculty. Both parties will receive regular updates regarding the status of the complaint.

**POLICY VIOLATIONS** Consequences for violating this policy vary based on the facts and circumstances of each situation. In determining the severity of sanctions or corrective actions, factors such as the frequency and severity of the offense and any history of past discriminatory, harassing, or retaliatory conduct are relevant. Corrective actions or discipline may include but are not limited to:

Metropolitan Community College

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- Required Training or Education
- Warning – Written or Verbal
- Performance Improvement Plan (PIP)
- Administrative Leave
- Termination

REFERENCE

3.30010 BP Non-Discrimination and Harassment –Employee Board Policy