

METROPOLITAN COMMUNITY COLLEGE

DISTRICT PROCEDURE

7.30030 DP

STUDENT DISCRIMINATION AND HARASSMENT

7.30030 DP

The Metropolitan Community College (the college) is committed to providing an inclusive and welcoming environment for all members of the community.

In accordance with its Policy Statement on Non-Discrimination 7.30020BP, the procedures described here are those that will apply when a student lodges a complaint of discrimination or harassment. The college has jurisdiction over conduct covered by this policy that occurred on campus, during or at an official college program or activity (regardless of location), or off campus when the conduct could create a hostile environment on campus.

I. Discrimination and Harassment Defined

- A. Discrimination is the denial of opportunity to, or adverse action against, a person because of that person's age, race, color, religion, sex, sexual orientation, national origin, and/or disability (protected classes). Conduct or policies that adversely affect the terms and conditions of a person's participation in the college's educational programs and activities, including employment, are discriminatory if they are motivated or based, in whole or in part, upon the person's protected class status.
- B. Harassment is generally defined as verbal, written, or physical conduct based on or motivated by a person's protected class status that unreasonably interferes with an individual's work or academic performance or creates a hostile work or educational environment by interfering with or limiting a person's ability to participate in the college's educational programs and activities. Harassing conduct may take many forms, including verbal acts and name-calling, as well as nonverbal behavior, such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating. This policy provides more specific definitions of disability harassment, racial harassment, and sexual harassment as defined below.
- C. Disability Harassment. Disability harassment is harassment motivated by a person's disability. Disability harassment constitutes discrimination on the basis of disability, which is prohibited by Section 504 of the Rehabilitation Act and its implementing regulations and the Americans with Disabilities Act and its implementing regulations.

Some examples of disability harassment include:

1. Fellow students continually remark that a student with a disability is “retarded” or “deaf and dumb” and does not belong in class or on a team
2. A staff member intentionally impedes a wheelchair-bound student by placing objects in his or her path
3. A professor belittles or criticizes a student with a disability for requiring the use of accommodations with the result that the student is discouraged or feels alienated
4. Fellow students taunt or belittle a person with a disability by mocking or intimidating her so she does not participate in class

D. Racial Harassment. For purposes of this policy, racial harassment is harassment motivated by a person’s race, color, or national origin. Racial harassment constitutes discrimination on the basis of race, which is prohibited by Titles VI and VII of the Civil Rights Act and their implementing regulations.

Some examples of racial harassment include:

1. The use of racial epithets or slurs by staff or students
2. A professor tells racist jokes or jokes that target persons of a particular national origin
3. A coach uses stereotyping based on race, color, or national origin
4. Fellow students circulate or publish written or graphic materials (such as graffiti) that show hostility to a racial or ethnic group

E. Sexual Harassment. Sexual harassment is harassment motivated by a person’s sex. Sexual harassment constitutes discrimination on the basis of sex, which is prohibited by Title IX of the Education Amendments of 1972 and its implementing regulations and Title VII of the Civil Rights Act and its implementing regulations. Sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual’s employment; or education;
- Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for academic or employment decisions affecting that individual; or

- Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating what a reasonable person would perceive as an intimidating, hostile, or offensive employment, education, or living environment ("hostile environment" sexual harassment).
 - In determining whether a hostile environment exists, the college will consider the totality of circumstances including factors such as the actual impact the conduct has had on the victim's participation in the college's programs and activities, the nature and severity of the conduct at issue, the frequency and duration of the conduct, the relationship between the parties (including account for any power differential), the respective ages of the parties, the context in which the conduct occurred, and the number of persons affected.

Sexual violence is a form of prohibited sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity or because of his or her status as a minor. Consent requires an affirmative act and consent provided by one who is coerced, incapacitated due to disability, intoxication, drug use or sleep is not effective consent.

Some examples of sexual harassment include:

1. A professor pressures a student for a dating, romantic, or intimate relationship
2. Unwelcome touching, kissing, hugging, or massaging by staff members or fellow students
3. A professor makes sexual innuendos or tells sexual jokes
4. Obscene gestures
5. Sexual intercourse by a man or woman upon a man or woman without consent (this is commonly referred to as rape or sexual assault)
6. Sexual touching with an object or body part, by a man or woman upon a man or woman, without consent
7. Non-consensual video or audio-taping of sexual activity
8. Knowingly transmitting a sexually transmitted disease to another
9. Sexual hazing
10. Date rape

The crimes of dating violence, domestic violence, and stalking can also constitute

sexual harassment when motivated by a person's sex. These crimes, no matter the motivation behind them, are a violation of this policy. The definitions of these crimes under the Jeanne Clery Disclosure Campus Crime Statistics Act, as amended by the Violence Against Women Reauthorization Act of 2013, are as follows:

"Domestic Violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of a victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse or the victim under the domestic or family violence laws of the jurisdiction [...], or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- Missouri's definition of domestic violence can be found at Mo. Rev. Stat. § 455.010.
- Under Missouri law, domestic violence also includes the crime of "domestic assault" which can be found at Mo. Rev. Stat. §§ 565.072-565.074.

"Dating Violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

- Missouri law does not specifically define dating violence, but conduct of this nature is covered by Missouri's definitions of domestic violence and domestic assault.

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

- Missouri's definition of stalking can be found at Mo. Rev. Stat. § 455.010 and § 565.225.

II. Confidentiality

The college will make reasonable and appropriate efforts to preserve an individual's privacy and protect the confidentiality of information when investigating and resolving a complaint. However, because of laws relating to reporting and other state and federal laws, the college cannot guarantee confidentiality to those who make complaints. In the event that the complainant's confidentiality cannot be ensured, the college will notify the complainant.

In the event a complainant requests confidentiality or asks that a complaint not be investigated, the college will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the respondent, the college's ability to respond may be limited. The college reserves the right to initiate an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated harassment or where the respondent may pose a continuing threat to the college community.

The college will protect the confidentiality of the victim (complainant) but will share information where necessary to provide accommodations or protective measures.

The Title IX Coordinator is the person responsible for evaluating requests for confidentiality.

III. Complaint

Potential students who have applied for admission, students currently enrolled, and persons who were students at the time of the alleged discrimination or harassment, may file a complaint in the manner specified by the Board Policy on Student Discrimination and Harassment (7.30030BP).

All employees of the college have a duty to report conduct that they observe or learn about that may constitute prohibited discrimination. Therefore, employees must report potential discrimination promptly, but no later than five (5) days after becoming aware of the incident. Reports shall be made to either the dean of students or the Title IX Coordinator for the primary campus.

So that the college has sufficient information to investigate a complaint, the complainant should include: (1) the date(s) and time(s) of the alleged conduct; (2) the names of all person(s) involved in the alleged conduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the complainant so that the college may follow up appropriately.

The college official receiving the complaint shall transmit it immediately to the dean of students/Title IX coordinator. The dean of students/ Title IX coordinator will provide the student with a copy of these procedures and the Board Policy on Student Discrimination and Harassment (7.30030BP). The dean of students/Title IX coordinator will assist the student with preparation of any forms and familiarize the student with the grievance process. The dean of students/Title IX coordinator will discuss with the complainant the option to pursue resolution through informal resolution and/or formal resolution. In situations involving sexual violence (including sexual assault), dating violence, domestic violence, or stalking, the dean of students/Title IX Coordinator will also provide the complainant with a copy of a "rights and options" document that explains, among other things, the process, the right to an advisor, and resources available on campus and in the community. In these situations, a person against whom a complaint has been filed will also be given written information about the process and resources.

Persons who file a complaint will not be required to confront the respondent in any manner or for any reason as a prerequisite to filing a complaint.

The investigator shall, upon receiving a complaint, immediately cause a report to be filed with the associate vice chancellor for human resources, associate director of employee relations, and the chief of staff to the chancellor. If the respondent is an employee, the associate vice chancellor of human resources will notify the respondent upon initiation of an investigation or a complaint.

IV. Conduct That Constitutes A Crime

Any person who wishes to make a complaint of discrimination that also constitutes a crime such as sex discrimination that takes the form of sexual violence (including sexual assault) or a criminal act involving dating violence, domestic violence, or stalking is encouraged to make a report with local law enforcement. Such persons may also contact college campus police at (816) 604-1200. If requested, the college will assist the complainant in notifying the appropriate law enforcement authorities. A victim may decline to notify such authorities.

V. Special Guidance Concerning Sexual Violence (including Sexual Assault), Dating Violence, Domestic Violence, and Stalking

If you are the victim of sexual violence (including sexual assault), dating violence, domestic violence, or stalking, do not blame yourself. These crimes are never the victim's fault. When the crime involves physical violence, the college recommends that victims immediately go to the emergency room of a local hospital. The college also recommends that victims contact local law enforcement. You may also contact college campus police at (816) 604- 1200, or any of the college officials designated to receive complaints of discrimination. The college will assist victims in making a complaint to local law enforcement. However, under no circumstance are victims required to make a complaint with local law enforcement.

Seeking Medical Attention

If necessary, you should seek medical attention in an emergency room or other medical provider that performs legal rape exams. Some resources, in no particular order, are:

St. Luke's Northland	5830 NW Barry Rd, Kansas City, MO, 64154	(816) 891-6010
University of Kansas Medical Center	3901 Rainbow Blvd, Kansas City, KS, 66160	(913) 588-5000
COVERSA at NKC Hospital	2800 Clay Edwards Dr., NKC, MO, 64166	(816) 717-1136
Shawnee Mission Medical Center	9100 W 74th St., Shawnee Mission, KS, 66204	(913) 676-2218
St. Luke's Hospital - Plaza	4401 Wornall Rd, Kansas City, MO, 64111	(816) 932-2171

St. Luke's East	100 NW St. Luke's Blvd, Lee's Summit, MO, 64086	(816) 347-4400
Centerpoint Medical Center	19600 E. 39th St., Independence, MO, 64057	(816) 698-7000
Truman Medical Center - Lakewood	7900 Lee's Summit Rd., Kansas City, MO, 64139	(816) 404-7000
COVERSA at Cass Regional Medical Center	2800 Rock Haven Rd, Harrisonville, MO, 64701	(816) 380-3474
St. Joseph Medical Center	1000 Carondelet Dr. Kansas City, MO, 64114	(816) 942-4400

A local service resource providing counseling, mental health, referrals and other services serving Jackson, Clay, Cass, and Platte counties is MOCSA (Metropolitan Organization to Counter Sexual Assault), 3100 Broadway, Suite 400, Kansas City, MO 64111-2591, telephone (816) 931-4527. MOCSA's 24-hour crisis hotline numbers are (816) 531-0233 and (913) 642-0233. Relay services are available by dialing 711. <http://www.mocsa.org/>. You may also seek support and assistance from a private physician, friend, relative, or other service resources. A national service resource is RAINN (Rape, Abuse & Incest National Network), and its 24-hour phone hotline number is (800) 656-HOPE (4673). RAINN's 24-hour online hotline is <http://apps.rainn.org/ohl-bridge/>.

It is very important for victims of sexual violence to preserve evidence. Such evidence will be important in the event of criminal prosecution and in order to obtain a protection order against the respondent. Evidence will also be important to resolving any complaint filed with the college. Accordingly everything possible should be done to preserve evidence by making certain that the crime scene is not disturbed. Victims of sexual violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, victims should seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.

It is also important to preserve other types of evidence, such as letters, emails, text messages, social media posts, etc., to the extent such evidence exists. These types of evidence will also be useful when a complaint is being investigated.

Once a complaint of this nature is made, the complainant has several options such as, but not limited to:

1. Contacting parents or a relative
2. Seeking legal advice
3. Seeking personal counseling (always recommended)

4. Pursuing legal action against the perpetrator
5. Pursuing disciplinary action
6. Asking for more information about this policy and the college's process for responding to a complaint.
7. Taking no further action

State law provides the right for a victim of one of these crimes to seek a protection order entered by a court that protects the victim from further contact with the respondent. If you wish to obtain such an order, the college will assist you in locating an attorney or similar advocate that can help you obtain such protection. Information about obtaining protection orders in Missouri can also be found at: <http://www.courts.mo.gov/file.jsp?id=69655>. If a protection order is issued, a copy should be provided immediately to campus police or a college official designated to receive complaints of discrimination. The college will take action to ensure compliance with the protection order on college property. Violation of such a protection order by the respondent constitutes a separate violation of the Board Policy on Student Discrimination and Harassment (7.30030BP), and is subject to the full range of discipline up to and including termination, expulsion, and exclusion from college programs and activities. Violations of protection orders will also be promptly reported to local law enforcement.

Where conduct subject to a complaint results in a criminal investigation, the college still has an independent duty to investigate and resolve the complaint. Therefore, to the extent doing so does not interfere with any criminal investigation, the college will proceed with its own investigation and resolution of the complaint.

VI. Preliminary Matters Related to the Resolution of a Complaint

At any point during the resolution of a complaint (i.e., investigation, hearing, appeal), a complainant may be allowed to change his or her academic, transportation, or work situation, to the extent the college controls these environments, if options to do so are reasonably available. Such changes may be available regardless of whether the complainant chooses to make a report to police. If a complainant wants to request a particular accommodation or protective measure, the appropriate dean should be contacted. The college may also implement other interim measures as it deems appropriate, such as an institutional no-contact order.

When a complaint involves sexual violence (including sexual assault), dating violence, domestic violence, or stalking, both the complainant and the respondent may have a support person/advisor of their choice (including an attorney) attend any meetings or hearings with them. In cases involving multiple complainants or respondents, a support person/advisor cannot be another complainant or respondent. The support person/advisor does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and must agree to maintain the confidentiality of the process. A support person/advisor may be removed if he or she becomes disruptive or

does not abide by the limitations discussed in the previous sentence. A support person/advisor will be required to sign an affirmation that he or she understands the role that a support person/advisor plays in the process. If a complainant or respondent intends to utilize a support person/advisor, the college must be notified at least two (2) business days prior to the meeting or hearing. If an attorney serves as a support person/advisor, the college reserves the right to have its own counsel present.

The investigator, hearing panel members, and any other college official involved in the resolution of a complaint shall discharge his or her duties fairly and impartially. If an involved college official determines that he or she cannot carry out his or her duties fairly and impartially because of the identity of a complainant, respondent, or witness, the investigator shall so notify the president, and the president will appoint another administrator to serve as investigator.

VII. Investigation

All complaints of discrimination will be promptly and thoroughly investigated in accordance with these procedures and the Board Policy on Student Discrimination and Harassment (7.30030 BP). In conducting an investigation, the investigator will be sensitive to any evidence and the possibility of retaliation and act accordingly. The investigator may request assistance from the associate vice chancellor of human resources or the chief of staff to the chancellor in conducting the investigation at any time during the process.

During the investigation, the complainant will have the opportunity to describe his or her allegations and identify supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and identify supporting witnesses or other evidence. The investigator will review statements and, depending on the circumstances, may interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

VIII. Methods of Solving Complaints

A. Informal Resolution. This informal process is intended to resolve actual or perceived instances of discrimination through agreement and mutual understanding between the parties involved. If the investigator determines that such an informal process is appropriate under the facts and circumstances of the case, and both the complainant and respondent agree, one or more of the following or similar methods may be utilized: a) a meeting between the investigator, the complainant, and the respondent; b) a meeting between the investigator and the respondent; c) a recommendation of training courses or seminars for either principal; and/or d) referral of the case to a mediator who has both legal and/or personnel relations experience; such mediator will discuss the issues with both principals and seek appropriate actions by the principals to reach an acceptable resolution.

As part of the informal process, the investigator may ask, but not require, the complainant to submit a signed, written statement concerning the allegations. This statement should contain all relevant details, such as the names of the people involved, the names of any witnesses, and the times and locations of the alleged harassing behavior.

The investigator may also prepare a written statement of the charges based on discussion with the complainant. If a written statement is prepared, the investigator will furnish a copy to the respondent.

At the conclusion of an informal process that results in the parties and the investigator agreeing the charge has been successfully resolved, each party will be asked to sign an acknowledgement that the informal process was performed with his/her agreement that the process resulted in a resolution of the charge that was satisfactory to him/her.

The details of any conditions agreed to by either party (e.g., counseling, the avoidance of a particular behavior, etc.) may be included in this agreement.

Signing the acknowledgment form is the final step in the informal resolution process and is entirely voluntary. There will be no adverse consequences for anyone who declines to participate in the informal resolution procedure.

Informal process will not be used to resolve complaints of sex discrimination that involve sexual violence. At any point, the complainant or respondent may discontinue the informal process, in which case the formal process will be used.

- B. Formal Resolution. The formal complaint process, which will commence as soon as practicable after the filing of a written complaint. As described in Board Policy on Student Discrimination and Harassment (7.30030 BP), the formal process involves an investigation and determination by a trained investigator. Both the complainant and the respondent have the opportunity to appeal the investigator's determination by filing an appeal to the vice chancellor for human resources within ten (10) days of the investigator's determination. If an appeal is filed, the appeal will be heard by a Hearing Committee. After the hearing, the Hearing Committee issues a written recommendation to the campus president. The campus president will then make a decision on the matter. The campus president's decision can be appeal to the chancellor within five (5) days. The chancellor will then issue a final decision.

IX. Hearing

The hearing and selection of a grievance coordinator will be arranged by the human resources department. The committee will conduct a prompt, thorough, and unbiased hearing. It will invite the complainant and respondent, with their respective advisor(s), to appear before it and will hear and question witnesses, if there are any. Advisors may participate as support persons for the complainant or respondent but are

not authorized to play an active role in the hearing. The complainant and respondent shall be present at the hearing until the end, unless the committee chair determines that this requirement should be modified to protect the emotional or physical well-being of the complainant or respondent. In any event, any such modification to this requirement shall comport with the due process rights of the respondent.

The committee will conduct its own inquiry, receiving information necessary to assist it in reaching a determination as to the merits of the charge, including the written determination prepared by the investigator during the initial investigation.

X. Pool

The college's grievance committee pool will be formed by individuals nominated by the governance groups. The pool will be of sufficient number to ensure that a pool of alternates is available to serve on the committee. The committee chair, upon consultation with the grievance coordinator, shall determine when it is appropriate to replace a committee member with an alternate.

XI. Policy Enforcement Training

The college shall provide appropriate training for all employees selected to investigate a complaint of discrimination and participate in the pool. The college shall determine the appropriate training required of these college employees and shall provide for periodic, required training and updates. At a minimum, the investigator, grievance coordinator, members of the pool, president, and chancellor shall receive appropriate training concerning these procedures, the Board Policy on Student Discrimination and Harassment (7.30030 BP), the evaluation and weighing of evidence, the conduct of a process that protects the safety of the complainant and promotes accountability, and pertinent laws prohibiting discrimination.

Reference: 6.15010 BP Academic Freedom
7.30020 BP Non-Discrimination

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