

METROPOLITAN COMMUNITY COLLEGE

BOARD POLICY

7.30030 BP

STUDENT DISCRIMINATION AND HARASSMENT

7.30030 BP

I. Policy

- A. It is the policy of the Metropolitan Community College (the college) to provide equal opportunity for all enrolled students and applicants for admission to the college, free from discrimination based on age, race, color, religion, sex, sexual orientation, national origin, and/or disability, and harassment including sexual harassment. Accordingly, the college considers discrimination in all its forms to be a serious offense. Discrimination constitutes a violation of this policy, is unacceptable, and will not be tolerated. Discrimination and harassment are further defined in applicable procedure (see 7.30030DP).
- B. This policy applies to discrimination and harassment complaints by potential students who have applied for admission, students currently enrolled, and persons who were students at the time of the alleged discrimination. It applies to allegations of discrimination in any aspect of the college's educational programs and activities including, but not limited to, admissions, employment, academics and student services (programs and activities).

II.

- A. Harassment based on a protected class constitutes prohibited discrimination when it denies or limits a person's ability to participate in or benefit from the college's program and activities. Harassment is further defined in applicable procedure (see 7.30030DP).
- B. Every member of the College community should be aware that all sexual contact and conduct on the campus and/or occurring with a member of the College community must be consensual. The College will not tolerate sexual assault, sexual harassment, and any other form of nonconsensual behavior. Such behavior is prohibited both by State and Federal law and by College policy.

It is the intention of the College to take whatever action may be needed to prevent, correct, and if necessary, sanction individuals who act in violation of this policy. It is essential that students who are sexually assaulted receive proper medical treatment, legal advocacy and counseling support as soon as possible.

- C. The college encourages persons who believe they have been discriminated against to file a complaint in accordance with this policy and applicable procedure (see 7.30030DP).
- D. Although an informal complaint can be brought at any time, a formal complaint that might result in a hearing under this policy must be brought within sixty (60) calendar days of the alleged act of discrimination. The formal complaint process shall remain available until the conclusion of the informal process, provided the informal process was initiated within the original sixty (60) calendar day time period.
- E. With the exception of those identified as Confidential Reporters, all College employees who witness or learn of potential discrimination committed against an applicant for admission or enrolled student are required to report the matter promptly and in no event later than five (5) days as set forth in applicable procedure (see 7.30030DP).
- F. The college will thoroughly and promptly investigate all complaints of discrimination in accordance with this policy and applicable procedure (see 7.30030DP). If an investigation confirms that discrimination has occurred, the college will take prompt and appropriate remedial action to prevent the discrimination, eliminate any hostile environment, prevent its recurrence, and correct its discriminatory effects on the victim and others, if applicable.
- G. In the event a complainant requests that his or her identity not be disclosed or that an investigation not proceed, the college will take all reasonable steps to investigate and respond to the complaint consistent with the student's request. If a complainant insists that his or her name not be disclosed to the alleged perpetrator (respondent), the college's ability to respond may be limited. The college reserves the right to move forward with an investigation despite a complainant's objection to his or her identity being disclosed in limited circumstances involving serious or repeated discrimination or where the respondent may pose a continuing threat to the college community.

If a student wishes to have a confidential discussion concerning alleged discrimination—i.e., the student does not wish his or her identity or other identifying information to be disclosed to college officials—he or she may speak to a designated confidential reporter.

Unless pertinent law compels disclosure (such as in a case involving sexual abuse of a minor), a Confidential Reporter will not reveal the reporting student's name, the identity of the alleged perpetrator, or any other specific information about the incident. The Confidential Reporter will only provide to college officials certain non-identifying information to be used for statistical purposes. College employees who are approached by a student who indicates a desire to have a confidential conversation concerning discrimination should direct the student to

those employees identified as a Confidential Reporter or to the Chancellor's Office.

- H. Retaliation against any person who files a complaint of discrimination, or who participates in the investigation or resolution of a complaint in any way, is strictly prohibited.
- I. Persons found to be in violation of this policy will be subject to the full range of discipline up to and including written reprimand, participation in required training, termination, full or partial suspension (for any period of time), and expulsion. Third-party vendors, suppliers, and visitors may be removed from college programs and/or prevented from returning to campus. Remedial steps may include counseling for the complainant, academic, work, or other arrangements for the complainant, separation of the parties, adjustment to the academic record, and training for the respondent and other persons.
- J. While the college encourages all good faith complaints of discrimination, the college has the responsibility to balance the rights of all parties. Therefore, if the college's investigation reveals that a complaint was knowingly false, the complaint will be dismissed and the person who filed the knowingly false complaint will be subject to discipline up to and including written reprimand, suspension, demotion, termination, and expulsion.
- K. While the college is committed to principles of free inquiry and free expression, discrimination is neither legally protected expression nor the proper exercise of academic freedom.
- L. Because the college recognizes discrimination as an important issue, it offers educational programming to a variety of groups such as: campus personnel; incoming students participating in orientation; and members of student organizations.
- M. The "investigator", under this policy, is either the dean of students of the primary campus or (if the dean is the subject of the complaint) another administrator designated by the president. The primary campus is defined as the campus where the alleged discrimination occurred.
- N. All days identified in this policy refer to calendar days.

### III. Informal Resolution

- A. Any student may seek advice and information related to discrimination.
- B. Students who have reason to believe they have been discriminated against may informally speak to the dean of students of the primary campus, unless that dean of students is the subject of the alleged discrimination complaint, in which event the student should seek advice from the campus president or his/her designee.

- C. If a student makes an informal complaint, an investigator will be appointed to review the complaint, conduct an initial investigation, and attempt to facilitate an agreed resolution of the complaint working in collaboration with the parties. The complainant and respondent will be notified that an informal investigation has been initiated and will have the opportunity to provide any relevant information. Informal process may only be used with the complainant and the respondent’s voluntary cooperation. However, the complainant will not be required to “work out” the problem directly with the respondent.
- D. The investigator will access other college personnel and resources as needed.
- E. Matters resolved through the informal process need not proceed further under the provisions of this policy.
- F. At any point, either party may discontinue the informal process, in which case the formal process will be used.
- G. Informal process cannot be used to resolve complaints of sex discrimination that involve sexual violence or a criminal act involving dating violence, domestic violence, stalking or sexual assault as defined in the Jeanne Clery Disclosure Campus Crime Statistics Act, as amended by the Violence Against Women Reauthorization Act of 2013, and Missouri State Statutes. Rather, such complaints will be resolved solely through formal process and or under the Code of Student Conduct.

IV. Formal Complaint Process

- A. Students who believe they have been discriminated against may file a complaint with the dean of students/Title IX Coordinator of the primary campus.

Contact information for the deans of students/Title IX Coordinators is as follows:

MCC-Administrative Center	Kathy Walter-Mack, Esq. Chief of Staff to the Chancellor Assoc. VC Human Resources 3200 Broadway Kansas City, MO 64111	(816) 604-1587
MCC-Human Resources	Christina McGee Director of Employee Relations and Training 3217 Broadway, Suite 100 Kansas City, MO 64111	(816) 604-1023
MCC-Blue River	Jon Burke Dean of Student Development 20301 E. 78 Highway Independence, MO 64057-2053	(816) 604-6620

MCC-Business and Technology	Ryan Meador Dean of Student Development and Enrollment 1775 Universal Avenue Kansas City, MO 64120-2429	(816) 604-5229
MCC-Longview	Karen Goos Dean of Student Development/Support Services 500 SW Longview Road Lee's Summit, MO 64081-2015	(816) 604-2326
MCC-Maple Woods	Karen Moore Dean of Student Development & Enrollment 2601 NE Barry Road Kansas City, MO 64156-1299	(816) 604-3175
MCC-Penn Valley	Yvette Sweeney Dean of Student Development & Enrollment 3201 Southwest Trafficway Kansas City, Missouri 64111-2764	(816) 604-4114

A student who files a formal complaint will be given a copy of this policy. The investigator will assist the student in filling out the necessary forms to initiate the complaint.

A student may also file a complaint with the United States Department of Education, Office of Civil Rights. Contact information is available at [www.ed.gov/ocr](http://www.ed.gov/ocr).

- B. When a complaint is received, the investigator shall promptly institute a thorough review of the circumstances and situations alleged in the complaint. The investigator will involve other college personnel and resources as deemed appropriate to ensure a thorough investigation of the allegations. The complainant and respondent will be notified that an investigation has been initiated and will have the opportunity to provide any relevant information, including identification of witnesses and non-testimonial evidence. The purpose of the investigation is to determine whether it is more likely than not that the alleged conduct occurred and, if so, whether it constitutes prohibited discrimination.
- C. During the course of the investigation, the investigator may receive counsel from other parties as needed, including the college's legal counsel.
- D. In certain narrow circumstances, the investigator may commence an investigation even if the complainant requests that the matter not be pursued. In such a circumstance, the investigator will take all reasonable steps to investigate and

respond to the matter in a manner that is informed by the complainant's articulated concerns. The decision concerning whether to proceed with an investigation despite a complainant's request to the contrary shall be made by the investigator.

- E. Throughout the investigation, the investigator will assess and determine whether interim remedies or protections for the parties involved or witnesses are appropriate. These interim measures may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative class-placement or workplace arrangements. Failure to comply with the terms of these interim remedies or protections constitutes a separate violation of this policy.
- F. Some instances of discrimination may also constitute criminal conduct. In such instances, the complainant will be encouraged to file a report with the appropriate law enforcement authorities and, if requested, the investigator will assist the complainant in doing so. The pendency of a criminal investigation, however, does not relieve the college of its responsibility to investigate discrimination. 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.

V. Determination

Within three (3) calendar days of the conclusion of the investigation, the investigator shall provide a written determination to the complainant and respondent. The written determination will explain the scope of the investigation and explain whether any allegations in the complaint were found to be substantiated by a preponderance of the evidence. In the event the written determination finds prohibited discrimination occurred, the written determination will include a statement of appropriate corrective and disciplinary action to be taken. The investigator will also implement reasonable and appropriate measures to ensure that the complainant is not subject to further discrimination and to remedy the effects of any discrimination that may have occurred with respect to the complainant and the campus community.

VI. Appeal and Hearing

Either the complainant or the respondent may appeal the determination of the investigator and request a hearing. Such appeal and request for hearing must be in writing and received by the investigator within ten (10) days after the investigator has issued the written determination. Upon receipt of the request for appeal and hearing, the associate vice chancellor for human resources will initiate the hearing process.

VII. Hearing Committee

- A. The associate vice chancellor of human resources shall within ten (10) days of the appeal make available an individual with expertise in discrimination to act as the

grievance coordinator. A grievance committee will be formed by the grievance coordinator within five (5) days of his/her appointment and will consist of three (3) members:

- one (1) selected by the complainant,
- one (1) selected by the respondent,
- one (1) selected by the grievance coordinator

all from a pool comprised of administrators, faculty, and staff trained to hear such matters. For cases involving alleged sexual violence including dating violence, domestic violence, stalking or sexual assault, committee members will have had training in these areas prior to participating in the proceedings. An alternate shall also be selected by the grievance coordinator from this pool. Any person selected to serve on the committee will be expected to be present at all scheduled meetings.

- B. Within five (5) days after the committee is constituted, the grievance coordinator will convene an organizational meeting. At this meeting the committee will receive the case file, including the written determination issued by the investigator, review the hearing procedures, schedule the hearing, and select a chair. The hearing shall commence within five (5) days of the organizational meeting. The complainant and respondent shall be present at the hearing and will be given an opportunity to address the committee. The committee members may ask questions of the complainant and respondent, but the complainant and respondent will not be permitted to question each other. In its discretion, the committee may hear live testimony from witnesses, in which case any questioning will be conducted by the hearing panel itself. Persons whose participation in the hearing is requested by the complainant, the respondent, or the committee to assist in establishing the facts of the case shall appear only for the purpose of giving testimony. The hearing shall be closed.
- C. The committee chair, in consultation with the grievance coordinator, will oversee the hearing process. The committee chair, in consultation with the grievance coordinator, may exclude irrelevant or repetitious evidence and testimony.
- D. The hearing will be recorded by audio and may be transcribed.

### VIII. Deliberations

- A. Deliberations of the committee will be closed. To support a determination of discrimination, a majority of the committee must determine by a preponderance of the evidence that a violation of this policy occurred. The committee may be provided with technical assistance from the grievance coordinator during its deliberations. The committee may also make recommendations for appropriate corrective action consistent with its determination.

- B. The grievance committee, in consultation with the grievance coordinator, shall provide its written determination and recommendation to the campus president, with copies to the complainant and respondent, within ten (10) days after the hearing has concluded. The grievance coordinator, in consultation with the committee chair, will be responsible for drafting and transmitting the determination and recommendations of the committee.
- C. The campus president shall review the written findings and recommendations of the committee. The campus president may accept or reject the findings and recommendations, in whole or in part. Within five (5) days of receiving the written findings and recommendations, the President shall issue a written decision. The president shall deliver a copy of the decision to the complainant, the respondent, the grievance coordinator, and the grievance committee. Should a determination of discrimination be accepted, the president's decision will include a statement of corrective action as well as appropriate remedial action. If the president does not accept the recommendation of the grievance committee, in whole or in part, the decision will include a written statement of reasons for the rejection.
- D. Within five (5) days of the decision of the president, either the complainant or respondent may appeal the president's decision to the chancellor. An appeal to the chancellor may be made only on the following grounds:
1. The decision of the president is contrary to the weight of the evidence;
  2. There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the committee, would result in a different decision;
  3. Bias or prejudice on the part of the committee or president;
  4. The punishment or corrective action imposed is disproportionate to the offense.
- E. The chancellor shall review the written determination and recommendations of the grievance committee and the president's decision. The chancellor may accept or reject the president's decision in whole or in part. The chancellor will make a decision within five (5) days, which decision shall be final and not subject to further review. Upon rendering his/her decision, the chancellor shall deliver a written copy of the decision to the grievance coordinator, the grievance committee, the complainant, and the respondent including the result stating both the rationale for the result, as well as any corrective action and appropriate remedial action imposed.

IX. Privacy

If necessary to comply with federal privacy laws, including but not limited to the Family Educational Rights and Privacy Act (“FERPA”), portions of the written determinations, decisions, and communications supplied to the complainant and respondent will be redacted in whole or in part.

X. Non-Attorney Support Person

During the investigation and determination process, both a complainant and a respondent may ask a support person of their choice to accompany them at all stages of the process. In cases involving multiple complainants or respondents, the support person cannot be another complainant or respondent. The support person does not serve as an advocate on behalf of the complainant or the respondent, cannot be actively involved in any proceedings, and must agree to maintain the confidentiality of the process. Witnesses and others involved in the investigation are not entitled to have a support person present during the investigatory process.

XI. Rights of the Parties

During the investigation, determination, and appeal of any complaint, the complainant and the respondent shall have equal rights. They include:

1. Equal opportunity to have the testimony of witnesses and other relevant evidence considered;
2. Similar and timely access to all information considered by the investigator, the committee, the president, and the chancellor;
3. Equal opportunity to review any statements or evidence provided by the other party;
4. Equal access to review and comment upon any information independently developed by the investigator;
5. Equal and simultaneous notification in writing of the outcome of each stage of the complaint process.

XII. Documentation

Throughout all stages of the investigation, determination, and appeal, the investigator, grievance coordinator, committee chair, president, and chancellor are responsible for maintaining documentation of the investigation, determination, and appeal, including documentation of all proceedings conducted under these procedures, which may include written findings of fact, transcripts, and audio recordings.

XIII. Timelines

All timelines identified in this policy may be suspended at the discretion of the associate vice chancellor of human resources during periods of holidays, semester breaks, finals, and any times that fall outside the regular school calendar and if the time for any action or decision falls upon a weekend or holiday, the action or decision shall be due the first working day following such weekend or holiday. The college will endeavor to complete its investigation and resolution of any complaint within sixty (60) calendar days of receiving it. If an extension is required to complete the proceedings for good cause written notice will be provided to the complainant and student with a reason for the delay.

Reference: 7.30020 BP Non Discrimination  
6.15010 BP Academic Freedom

Approved: Board of Trustees  
August 11, 1977

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