

**EQUAL EMPLOYMENT OPPORTUNITY**

A. **APPLICABILITY.** All employees subject to this manual

B. **POLICY.**

1. The policy of the Mercer County Community College (the "College") is to provide an educational, employment, and business environment free of harassment that is based on race, color, religion, affectional or sexual orientation, gender, and/or gender identity or expression, marital status, domestic partnership or civil union status, pregnancy or parental status, ethnicity, nationality, veteran or military status, age, physical or mental disability, or and any other category protected by law. Such prohibited harassment includes but is not limited to sexual violence, unwelcome sexual advances, requests for sexual favors, and other verbal and/or physical conduct or communications constituting sexual harassment as defined and otherwise prohibited by state and federal law. Sexual violence against employees is prohibited by Title VII of the Civil Rights Act of 1964.
2. Employee complaints of harassment must be reported to the College Office of Equal Employment and Opportunity/Office of Human Resources.
3. Harassment based on race, color, religion, sex, sexual orientation, gender identity, national origin, citizenship status (including document abuse), age, disability, veteran status or genetic information violates College Policy when the conduct is unwelcome, verbal, or physical conduct of a nature that is sufficiently severe, persistent, or pervasive that it alters working conditions and creates a hostile environment for employees. The unwelcome behavior may be based on power differentials, the creation of a hostile environment, or retaliation for harassment complaints. Harassment by and between, employees; employees and students; and campus visitors and employees, is prohibited by this policy.
4. Due process is afforded any employee accused of harassment. On receipt of a complaint, an immediate preliminary review will be conducted to determine if there is reasonable cause to believe the nondiscrimination policy may have been violated. If so, then a prompt, thorough, impartial investigation will be conducted by the authorized administrator, or designee. If the final decision is that harassment occurred, the College will take immediate action to eliminate the hostile environment, prevent its recurrence, and address its effects. Remedies for the complainant will also be sought. Violations of this policy may result in disciplinary action up to and including termination for employees, sanctions up to and including suspension or expulsion for students, and appropriate sanctions against campus visitors. This policy applies to prohibited conduct that occurs both on and off campus and covers employees, and visitors.
5. This policy is subject to constitutionally protected speech rights and principles of academic freedom. Questions about this policy may be directed to the College EEO/Affirmative Action Office/Office of Human Resources.
6. Examples of Policy Violations

- a. It shall be a violation of College's Harassment Policy for any employee, student or campus visitor to engage in unwelcome conduct that is based on race, color, religion, sex, sexual orientation, gender identity, national origin, citizenship status (including document abuse), age, disability, veteran status or genetic information:
- b. Engage in offensive conduct based on race, color, religion, affectional or sexual orientation, gender, and/or gender identity or expression, marital status, domestic partnership or civil union status, pregnancy or parental status, ethnicity, nationality, veteran or military status, age, physical or mental disability, or and any other category protected by law that becomes a condition of continued employment or the conduct is sufficiently severe or pervasive to create a work environment that a reasonable person would consider intimidating, hostile, or abusive;
- c. Engage in unwelcome conduct, verbal or physical, including intimidation, ridicule, insult, comments, or physical conduct, that is based on an individual's race, color, religion, affectional or sexual orientation, gender, and/or gender identity or expression, marital status, domestic partnership or civil union status, pregnancy or parental status, ethnicity, nationality, veteran or military status, age, physical or mental disability, or and any other category protected by law or on their protected activities under applicable anti-discrimination laws and policies, when the behavior can reasonably be considered to adversely affect the work environment, or an employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.
- d. Engage in Sexual Harassment, which includes, but it not limited to:
  - i. Make unwelcome sexual advances to another employee, student or campus visitor;
  - ii. Make unwelcome requests for sexual favors, whether or not accompanied by promises or threats with regard to the employment or academic relationship;
  - iii. Engage in verbal or physical conduct of a sexual nature with another employee, student or campus visitor, that may threaten or insinuate, either explicitly or implicitly, that the individual's submission to, or rejection of, the sexual advances will in any way:
    1. Influence any personnel decision regarding that person's employment, evaluation, wages, advancement, assigned duties, shifts or any other condition of employment or career development; or
    2. Influence his or her grades, participation in or access to academic programs, class standing or other educational opportunities;
  - iv. Engage in verbal or physical conduct of a sexual nature that:
    1. Has the purpose or effect of substantially interfering with an employee's ability to do his or her job; or with a student's ability to learn or participate in a class; or
    2. Which creates an intimidating, hostile or offensive work or academic environment;

3. Commit any act of sexual assault or public sexual indecency against any employee or student whether on MCCC property or in connection with any MCCC-sponsored activity;
4. Continue to express sexual interest in another employee, student or campus visitor after being informed or on notice that the interest is unwelcome (reciprocal attraction is not considered sexual harassment);
- v. Engage in other harassing conduct based on an individual's on race, color, religion, affectional or sexual orientation, gender, and/or gender identity or expression, marital status, domestic partnership or civil union status, pregnancy or parental status, ethnicity, nationality, veteran or military status, age, physical or mental disability, or and any other category protected by law in the workplace or academic environment, whether physical or verbal, including, but not limited to, commentary about an individual's body (or body parts), degrading words to describe an individual, offensive comments, suggestive language or jokes, innuendoes, and suggestive objects, books, magazines, computer software, photographs, cartoons or pictures. Other misconduct may include exploitation, stalking, and bullying based on an individual's on race, color, religion, sex, sexual orientation, gender identity, national origin, citizenship status (including document abuse), age, disability, veteran status or genetic information.
- vi. Treat a complainant or witness of harassment based on an individual's on race, color, religion, affectional or sexual orientation, gender, and/or gender identity or expression, marital status, domestic partnership or civil union status, pregnancy or parental status, ethnicity, nationality, veteran or military status, age, physical or mental disability, or and any other category protected by law in a manner that could dissuade a reasonable person from pursuing or participating in the complaint and investigation.

#### 7. Additional Policy Violations

- a. Supervisors, managers, administrators and faculty must comply with College policies and procedures and the laws dealing with discrimination. Supervisors, managers, administrators and faculty who violate those policies, procedures, or the law or who disregard or fail to report allegations of harassment on the basis of race, color, religion, affectional or sexual orientation, gender, and/or gender identity or expression, marital status, domestic partnership or civil union status, pregnancy or parental status, ethnicity, nationality, veteran or military status, age, physical or mental disability, or and any other category protected by law (whether reported by the person who is the subject of the sexual harassment or a witness) are in violation of this policy and shall be subject to discipline up to and including dismissal.
- b. It is a part of every employee's job to participate fully and honestly in any workplace investigation, and the College expects such participation of its employees. Failure on the part of the College employee to participate fully and

honestly in any workplace investigation may be grounds for discipline under this policy. Any Employee or who fails to cooperate with the investigation may be subject to disciplinary action, up to and including dismissal.

8. Responsibility of Policy Enforcement

- a. Employees and students must avoid offensive or inappropriate harassing behavior based on an individual's on race, race, color, religion, affectional or sexual orientation, gender, and/or gender identity or expression, marital status, domestic partnership or civil union status, pregnancy or parental status, ethnicity, nationality, veteran or military status, age, physical or mental disability, or and any other category protected by law. at work, or in the academic environment (in and out of the classroom).
- b. Employees and students are encouraged (but not required) to inform perceived offenders of this policy and that the commentary/conduct is offensive and unwelcome.

9. Complaints

a. Employees

Employees who experience harassment at work (by a supervisor, co- employee, student or visitor) are urged to report such conduct to the direct attention of their supervisor, their Division's Vice President or Department Chair, or the College's Equal Employment Opportunity/Affirmative Action Office/Office of Human Resources. If the complaint involves the employee's supervisor or someone in the direct line of supervision, or if the employee for any reason is uncomfortable in dealing with his or her immediate supervisor, the employee may go directly to the College's EEO/AA Office/Office of Human Resources

b. Students

Students who experience sexual harassment or sexual assault in a school's education program and activities (by a faculty member, administrator, campus visitor or other student) are urged to report such conduct to the designated Title IX Coordinator. A student may also contact the College's EEO/AA Office/Office of Human Resources to respond to harassment complaints based on an individual's race, color, religion, affectional or sexual orientation, gender, and/or gender identity or expression, marital status, domestic partnership or civil union status, pregnancy or parental status, ethnicity, nationality, veteran or military status, age, physical or mental disability, or and any other category protected by law.

10. General

- a. Complaints by employees will be investigated according to procedures established by the College's EEO/AA Office/Office of Human Resources. Copies of these procedures may be obtained on the College website and the College EEO/AA Office/Office of Human Resources.
- b. Complaints by students will be investigated according to the procedures established in the Student Code of Conduct, Copies of these procedures may be obtained on the College website and at the Student Life and Leadership Office.
  - i. All complaints will be investigated in a prompt, thorough, and impartial manner.

- ii. Where investigation confirms the allegations, appropriate responsive action will be taken by the College.

#### 11. Confidentiality

Records will be maintained in a confidential manner to the extent permitted by law and insofar as they do not interfere with College's legal obligation to investigate and resolve issues of discrimination and harassment based on one's protected class status—as outlined in law and in College policy. The College cannot promise complete confidentiality.

#### 12. Violations of Law

An employee or student may be accountable for discrimination and/or harassment under applicable local, state, and/or federal law, as well as under College policy. Disciplinary action by College may proceed while criminal proceedings are pending and will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced.

#### 13. False Statement Prohibited

Any individual who knowingly provides false information pursuant to filing a discrimination charge or during the investigation of a discrimination charge, will be subject to appropriate disciplinary action, up to and including, employment termination or academic dismissal.

#### 14. Retaliation

Retaliation against an employee or student for engaging in protected activity is strictly prohibited. The College strictly prohibits taking an adverse action that might deter a reasonable person from participating in activity protected by antidiscrimination laws. Protected activity consists of:

- a. opposing conduct reasonably believed to constitute discrimination, including harassment, which violates a nondiscrimination statute or which MCCC policy prohibits;
- b. filing a complaint about such practice; or
- c. testifying, assisting, or participating in any manner in an investigation or other proceeding related to a discrimination complaint.

Retaliatory actions are not limited to formal personnel actions such as termination, demotion, non-promotion, or non-selection. Retaliatory actions are broadly defined as harassing behavior, significant changes to job duties or working conditions, and even threats to take personnel actions based on engaging in protected activity. MCCC will take appropriate disciplinary action, up to and including employment termination or academic dismissal if retaliation occurs.

Approved:

Board of Trustees

May 10, 1972

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