

PROCEDURES MEMORANDUM

TO: MCC Staff and Students

FROM: Office of the President

SUBJECT: Policy Prohibiting Harassment of Students

DATE: February 10, 2017

PURPOSE: To prohibit harassment of students and to establish procedures for making, investigating and acting upon complaints and reports of harassment.

SCOPE: These procedures apply to protect all students of the College from harassment.

1. General Background; "Harassment" Defined and Prohibited

- A. College policy forbids harassment of students. Harassment includes, but is not limited to, sexual harassment, racial harassment, religious harassment, and harassment based on or because of a person's age, national origin, marital status, ethnicity, disability, or sexual preference.
- B. Harassment also includes subjecting a student to unwelcome offensive behavior that is sufficiently severe and pervasive as to create a hostile or offensive educational environment. Any form of unwelcome, uninvited or unsolicited behavior, conduct or language that is sufficiently severe and pervasive as to create a hostile or offensive educational environment is harassment that is prohibited under this policy.
- C. Harassment includes, but is not limited to:
 - the use of insulting or derogatory names or gestures;
 - display of derisive, abusive or offensive written, graphic, pictorial or electronic material;
 - use of intimidating, insulting or ridiculing language;
 - touching, patting, fondling, groping, embracing, pinching, brushing against, or otherwise making unwanted contact with a person's body;
 - telling of unwelcome lewd, crude or offensive stories or jokes; and
 - use of sexual, racial, ethnic, age-based, religion-based, marital status-based, disability-based, sexual preference-based, or other offensive, derogatory and insulting names.
- D. "Sexual harassment" of a student includes conditioning academic advancement, student grades, academic standing or privileges upon submission to sexual

demands or suggestions. Sexual harassment of students by teachers, staff or fellow students is incompatible with the educational environment and objectives of the College.

"Sexual harassment" of a student also includes unwelcome physical, verbal or non-verbal conduct such as, but not limited to, unwelcome sexual advances or requests for sexual favors when:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of a student's enrollment, participation, or affiliation with the College, or of the enjoyment or receipt of the benefits of a College course, program or other activity of or affiliated with the College; or
- 2) Submission to or rejection of such conduct by a student is used as a basis for any decision that may affect the collegiate standing, privileges, or opportunities of any individual.

"Sexual harassment" of a student also includes unwelcome conduct of a sexual nature (or because of sex) that has the purpose or effect of unreasonably interfering with a student's collegiate performance, or of creating an intimidating, hostile or offensive learning environment, or of denying or limiting a student's ability to participate in, or receive or enjoy the benefits, services, or opportunities of, the College's programs or activities.

- E. Sexual harassment may occur between individuals of the same or opposite sex. Racial harassment may occur between individuals of the same race or different races. Similar principles apply respecting ethnic, age-based, religion-based, marital status-based, disability-based, and sexual preference-based harassment.
- F. Harassment of College students by employees or fellow students is expressly prohibited and will subject the offender to appropriate disciplinary sanctions up to and including dismissal from employment or enrollment. Complaints in this regard shall be promptly investigated and actions concluded by designated College officials. Complaints may also be made under this Policy respecting the conduct of non-employee, non-student third parties (such as campus visitors or vendor representatives).

2. Responsibilities

- A. In all of its forms, harassment interferes with and is inconsistent with the College's mission and has no place at the College, and the College desires to prevent it. Therefore, whenever the College knows that harassment has occurred or is occurring, the College will take prompt and effective action to stop the harassment and prevent its recurrence. Accordingly, all College employees have the responsibility of promptly informing College officers (the Vice President for Student Affairs or the Dean of Student Advocacy and Accountability), through the most confidential and direct means practicable, of possible acts of and

complaints or reports alleging, sexual, racial or other harassment. All College employees must, in addition, be vigilant in ensuring that a hostile environment does not exist, and in responding in appropriate ways concerning unwelcome offensive conduct.

- B. The College expects each principal administrative officer, dean, associate dean, department head, supervisor, employee and student to attempt to assure an educational environment free from harassment and intimidation.
 - C. The Vice President for Student Affairs has the overall responsibility for judiciously administering and overseeing the procedures described in this Procedures Memorandum. College management staff has responsibility to assist the Vice President for Student Affairs in that regard.
 - D. Whenever the Vice President for Student Affairs is referred to in this document, the reference shall include any individual designated by the Vice President to act on his/her behalf.
3. Procedure for Handling a Harassment Report or Complaint Made by a College Student
- A. Allegations or reports of harassment made by a College student will be investigated thoroughly in accordance with the procedures set forth in this Procedures Memorandum.
 - B. Any College student with a complaint of harassment against an employee or a fellow student should immediately notify the Dean of Student Advocacy and Accountability through the most confidential means practicable. If the complaint involves the Dean of Student Advocacy and Accountability or the Vice President for Student Affairs, the student may notify the Associate Vice President for Compliance and General Counsel, who will in turn notify the supervisor of the Dean of Student Advocacy and Accountability or the Vice President for Student Affairs as the case may be. (In the remainder of this Policy, this person – namely, the Dean of Student Advocacy and Accountability or his/her supervisor or the Vice President for Student Affairs or his/her supervisor – is referred to as the "Responsible Official.")
 - C. Upon notification of the conduct allegedly constituting harassment as defined in this Policy, the Responsible Official will take immediate and appropriate investigative action, and take or initiate corrective action if warranted, in consultation and cooperation with the Associate Vice President for Compliance and General Counsel. The first investigative step will be to request the reporting/complaining party to submit a written statement detailing with specificity the harassing conduct alleged, the names of any witnesses, dates, copies of pertinent documents, and other relevant information. Should the reporting/complaining party refuse to provide a written or recorded statement detailing the allegations, the Responsible Official will document the refusal and consult with the Associate Vice President for Compliance and General Counsel

before proceeding with investigative and corrective action. In this situation, the Responsible Official will normally be directed to investigate to the extent practicable without the benefit of such evidence from the reporting or complaining party, and to cause appropriate corrective action to be taken or initiated to any extent determined warranted.

- D. As he or she deems necessary or appropriate, the Responsible Official may take, initiate or request action to separate or insulate the reporting/complaining party from the alleged harasser(s), including but not limited to allowing a reporting/complaining student to transfer into a different class if feasible.
- E. The Responsible Official, or his or her designee, may conduct interviews of the reporting/complaining student, the alleged harasser(s) and any appropriate witnesses.
- F. The Responsible Official will make a finding and report based on all the known facts and circumstances. A copy of the finding and report will be provided to the President of the College. A College employee who is found to have engaged in harassment of a College student will be subject to disciplinary sanctions including but not limited to written reprimand, probation, demotion, transfer, required professional counseling, and/or termination of employment. A College student who is found to have engaged in harassment of another College student will be subject to disciplinary sanctions including but not limited to a written warning, disciplinary probation, suspension and/or dismissal. Whenever a finding is made that harassment has occurred, the victim will be informed, in general terms, of the action the College is taking to stop the harassment and prevent its recurrence.
- G. Due to the individual nature of such reports/complaints, each report/complaint will be handled on a case-by-case basis. However, every reasonable effort will be made to investigate and conclude the handling of a report/complaint in a timely fashion. If the student who made a report or complaint of alleged harassment has not been advised of the general outcome of the investigation within two weeks after the date of the initial report or complaint, the student may contact the Responsible Official and obtain an estimate of the timetable for completion of the investigation.
- H. In defining conduct that constitutes sexual harassment, it should be noted that sexual harassment is distinguished from an action or incident that is a purely personal, social relationship without a discriminating collegiate effect. In determining whether conduct constitutes sexual harassment, the College will examine the record as a whole and the totality of the circumstances, such as the nature of any sexual advances and the context in which alleged incidents occurred. The determinations respecting the particular conduct involved, any actions necessary to stop any harassment and to prevent its future recurrence, and providing other relief to the complaining or affected student as deemed appropriate, will be made based on all the known facts and circumstances, on a case-by-case basis.

- I. Any student who feels that he/she has been or is being subjected to conduct that is "harassment" as defined in this Policy should, in addition to immediately reporting the conduct to the Responsible Official, keep a detailed documentary record (diary) of the offending conduct (including dates of incidents, what was said and done, names of any witnesses to the incidents, and so forth).
4. Confidentiality and Privacy
 - A. Reasonable efforts will be made to protect the confidentiality and privacy interests of all persons concerned respecting matters arising under this Policy. However, the College may disclose complaints, reports, facts, identities, and other information, as the College deems necessary to conduct an adequate investigation or to protect the legal interests of the College.
 5. Prohibition of Retaliation
 - A. No form of retaliation will be permitted against any person who in good faith makes a complaint or report of harassment under this Policy, or who provides evidence, testimony or assistance concerning any investigation of possible harassment. Any person perceiving any such retaliation should report it to the Responsible Official or the Vice President of Student Affairs.
 6. Harassment by Non-Employee, Non-Student Third Parties
 - A. In addressing reports or complaints of harassment by third parties who are neither employees nor students, the Responsible Official will investigate and take actions, as feasible and appropriate, in general accordance with the foregoing procedures. In appropriate circumstances, the College President or Associate Vice President for Compliance and General Counsel may be asked to assist in devising or implementing remedial actions in situations involving harassment by non-employee, non-student third parties.
 7. Bad Faith Use of Policy
 - A. Bad faith allegations or use of this Policy for purposes unrelated to its intent are expressly prohibited. Disciplinary action may be taken as appropriate if it is determined that a bad faith allegation of harassment has been made to harass, intimidate or coerce an individual against whom the allegation is made.

Adopted 2/15/90; Revised 7/1/01;7/25/06 (title changes only); Revised 5/29/08; 9/14/14;
2/10/17