

**Policy 2.33
Sexual Harassment/Workplace Violence**

Effective Date 11/13/14

Responsible Office		Administration			
Responsible Official		VP of Finance and Admin			
Approvals	Policy Cmte.	President	BOT	Last Revised	
	NA	11/13/14	11/13/14		

Policy

This policy applies to McDowell Technical Community College students, faculty, staff, and student employees:

McDowell Technical Community College is committed to providing a positive, discrimination-free educational and working environment for staff, faculty, and students. No employee or student of the College shall be subjected to sexual harassment. Inherent in this policy is the commitment to an environment that recognizes the worth and dignity of every person and that fosters respect among all members of the College community. Sexual harassment is damaging to this environment, and will not be condoned.

Definitions

1. Domestic Violence – Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction or by any other person against an adult or youth who is protected from the person’s acts under the domestic or family violence laws of the jurisdiction.
2. Sexual Assault – an offense classified as a forcible or non-forcible sex offense under the uniform reporting system of the FBI.
3. Stalking – 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.
4. Dating Violence – violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.
5. Workplace Violence – includes but is not limited to intimidation, bullying, stalking, threats, physical attack, domestic violence or property damage and includes acts of violence committed by students, faculty, staff, and student employees.
6. Intimidation – is engaging in actions that include but is not limited to behavior intended to frighten, coerce or induce duress.
7. Bullying – is unwanted offensive and malicious behavior which undermines an individual or group through persistently negative attacks. There is typically an element of vindictiveness and the behavior is calculated to undermine, patronize, humiliate, intimidate, or demean the recipient.
8. Threat – is the expression of intent to cause physical or mental harm. An expression constitutes a threat without regard to whether the party communicating the threat has the

present ability to carry it out and without regard to whether the expression is contingent, conditional or future.

9. Physical Attack – is unwanted or hostile physical contact such as hitting, fighting, pushing, shoving or throwing objects.
10. Hostile Work Environment – is one that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's work performance.

Based upon established guidelines for defining sexual harassment in the workplace and in the educational setting, sexual harassment is defined for purposes of this policy as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;
2. Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting that individual; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's academic or work performance or creating an intimidating, hostile, or offensive learning or employment environment.

The following is a partial list of unwelcome, unwanted behavior, which may be considered sexual harassment:

- Unwelcome sexual advances or propositions – whether they involve physical touching or not;
- Written or verbal sexual epithets, jokes, or references to sexual conduct, gossip regarding one's sex life;
- Written or verbal abuse of a sexual nature, use of sexually degrading, or vulgar words to describe an individual;
- Leering, whistling, brushing against another's body, sexual gestures;
- The display of sexually suggestive objects, pictures, posters, cartoons, websites, and any form of electronic communication;
- Comments about an individual's body or appearance, or regarding one's sex life, experience, sexual prowess, or sexual deficiencies;
- Asking questions about sexual conduct or probing in to one's sex life or relationships; and
- Harassment consistently targeted at only one sex, even if the content of the verbal abuse is not of a sexual nature.

Discriminatory Harassment

Discriminatory Harassment in the employment context refers to any verbal or physical conduct that denigrates, threatens, intimidates, or shows hostility or aversion to an individual because of that person's race, color, religion, gender, national, or ethnic origin, age, disability, veteran or active military status, genetic characteristics when such conduct has the purpose or effect on unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating, or offensive work environment.

Likewise, discriminatory harassment in the educational context refers to verbal or physical conduct of a similar nature directed at a student, which has the purpose or effect of unreasonably

interfering with one's freedom by creating an intimidating, hostile, humiliating, or sexually offensive academic environment.

The following is a partial list of unwelcome, unwanted behavior, which when based upon one's race, color, religion, gender, national, or ethnic origin, sexual orientation, age, disability, veteran or active military status, or genetic characteristics may be considered discriminatory harassment:

- Verbal or physical conduct that denigrates or shows hostility or aversion toward an individual or group;
- Epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts;
- Written or graphic material that denigrates or shows hostility or aversion toward an individual or group, including the display of objects, pictures, posters, cartoons, websites, and any form of electronic communication.

Reporting a Complaint of Harassment or Discrimination

Employees, who believe that they are being harassed or discriminated against, or have taken measure to stop the harassment or discrimination but have been unsuccessful, may report a complaint to any of the following persons:

- The employee's immediate supervisor;
- Title IX Coordinator (Vice President of Finance and Administration);
- MTCC personnel office; or
- The MTCC President.

Students, who believe that they are being sexually harassed, or who have taken measures to stop the harassment but have been unsuccessful, may report a complaint with any of the College representatives:

- The Vice President of Learning and Student Services;
- Any Dean
- The Title IX Coordinator (Vice President of Finance and Administration); or
- The MTCC President.

If individuals decide they want to make a report, contact should be made with the MTCC representative (in list above) with whom they feel the most comfortable. As with any job-related or student complaint, MTCC encourages following the chain of command where possible. However, due to the personal nature of harassment and discrimination and MTCC's strong opposition to sexual harassment, any employee/student who feels he or she is being subject to harassment or discrimination can complain to any one of the persons listed previously, orally or in writing.

When making a complaint or harassment or discrimination, the employee/student should be prepared to provide the following information:

- Name;
- The name of the person or persons committing the harassment or discrimination;
- The specific nature of the harassment or discrimination; or
- Whether the employee/student has previously reported such harassment or discrimination and, if so, when and to whom.

The College's complaint procedure provides for an immediate, thorough and objective investigation of the harassment or discrimination. All actions taken to investigate and resolve complaints through this process will be conducted in a matter that preserves confidentiality to the greatest extent possible under the circumstances, without compromising the thoroughness of the investigation. The investigation will be completed and a determination made and communicated to the person filing the harassment complaint as soon as practical.

If MTCC determines that a violation of this policy has occurred, it will take appropriate remedial action against a person found to have engaged in prohibited conduct. The discipline will be commensurate with the severity of the offense. Any person who is found to be in violation of this policy is subject to disciplinary action up to and including discharge from employment or expulsion.

Any College employee or student who experiences sexual harassment or discrimination on campus from a person who is neither enrolled as a student nor employed by the College should contact campus security.

Protection Against Retaliation

Retaliation is a very serious violation of this policy and should be reported immediately using the complaint process described above. Retaliation, whether by the alleged wrongdoer or other individuals, can take any of many forms. Retaliation is defined as any materially adverse action that might well have dissuaded a reasonable person from making or supporting a complaint of discrimination or harassment. Examples of tangible, adverse actions may include a transfer to an undesirable location, a reduction in work hours, a serious loss in responsibility, the denial of an earned benefit, or termination of employment.

Retaliation against any individual for reporting discrimination or harassment or against one who participates in an investigation will not be tolerated. In responding to reports of retaliation, the College will follow the same process, outlined above, including conducting a prompt, thorough and impartial investigation and taking appropriate remedial measures.

False Accusation

MTCC recognizes that the question of whether a particular course of conduct constitutes discrimination or harassment requires a factual determination. The College also recognizes that false accusations can have serious effects on innocent persons. If, after investigation, it is clear that a person who has accused another of discrimination or harassment has maliciously or recklessly made a false accusation, the accuser will be subject to appropriate disciplinary action, up to and including termination or, in the case of a student, expulsion. In such an event, the College will also take appropriate action to restore the reputation of the accused.