

DES MOINES AREA COMMUNITY COLLEGE
EDUCATIONAL SERVICES PROCEDURES

Section: STUDENT RIGHTS, APPEALS AND FERPA
Subject: Discrimination and Harassment Complaint Procedure
Number: ES4645
Effective: March 1, 2017

I. Institutional Regulations

A College student who believes that College policies or procedures on equal opportunity in employment or education have been violated, resulting in harassment or discriminatory treatment on the basis of race, color, national origin, creed, religion, sex (including pregnancy and marital status), sexual orientation, gender identity, age, disability, and genetic information or, to the extent covered by law, veteran status, may file a formal complaint through the College Discrimination Complaint Procedure for Students. Harassment that is based upon the aforementioned categories is a form of discrimination. Subjecting a person to coercion or retaliation for filing a complaint or providing information regarding a complaint is prohibited. This is a companion procedure to HR 3005.

The College recognizes and is committed to the concepts of academic freedom and free speech. The College strives to create an environment that promotes the free exchange of ideas. The application of this policy will not infringe upon the First Amendment rights of free speech.

II. Definitions

A. Discrimination

Discrimination is the disparate treatment resulting in an adverse effect upon an individual, an individual's work and/or educational environment and is based upon their membership in a legally protected class as is defined above.

B. Harassment

Harassment is verbal or physical conduct or graphic display which is unwelcome, severe, or pervasive and interferes with the person's work, educational and/or social environment based upon their membership in a legally protected class as defined above. Examples may include but are not limited to:

1. Remarks, racial or ethnic slurs, written or graphic material, jokes, vandalism, threats, physical contact pranks.
2. Threats, demands or suggestions that an employee's work status, a student's academic progress, or an applicant's employment opportunity is contingent upon his/her toleration of or acquiescence to harassment.

C. Sexual Harassment

Sexual harassment is a form of harassment which is based upon unwelcomed sexual advances, requests for sexual favors, displays of graphic sexual material when others cannot avoid the material without forfeiting the opportunities reasonably expected in that location 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 status as an employee, a student or an applicant for employment;
OR
2. Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting such individual's work status, academic progress or employment opportunities;
OR
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work status, academic progress or employment opportunities or creating an intimidating, hostile, or offensive working or academic environment.

While it is not possible to list all of the circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending on the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- a. Unwelcome sexual advances – whether they involve physical touching or not;
- b. Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies or prowess;
- c. Displaying sexually suggestive objects, pictures, cartoons – this includes materials on computer screens and/or electronic devices;

- d. Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- e. Inquiries into one's sexual experiences; and
- f. Discussion of one's sexual activities.

Prohibited conduct under this Policy also includes attempting or aiding in the commission of Sexual Misconduct or retaliating against another for exercising his/her rights under this Policy.

III. Complaint Procedures

A. Discrimination/Harassment Complaint forms may be obtained from the Counselor, Advisor, Judicial Officer or from campus Deans/Provosts' offices. DMACC student employees wishing to report discrimination/harassment related to employment should refer to DMACC Policy HR 3005.

B. Discrimination/Harassment Complaint Procedure

1. Step 1

- a. If an individual believes s/he is being discriminated/harassed on the basis of a protected status (as defined in Section I), s/he should make his/her objections known to the alleged discriminator. If this fails to stop the objectionable behavior, or if the individual is not comfortable confronting the alleged discriminator, s/he should immediately bring the matter to the attention of an Academic Dean, Campus Provost or the Judicial Officer. A student who believes that s/he has been subjected to sexual harassment is not required to confront his/her alleged harasser, and may proceed immediately to filing a complaint with the appropriate Academic Dean or Campus Provost.
- b. The complainant shall report the alleged discrimination or harassment within 15 business days of the day the complainant became aware of, or should have become aware of, the discrimination issue through the reasonable exercise of diligence. Complaints may be made verbally or in writing on the Student Conduct/Discipline Report Form. In no instance may a complaint of discrimination be made later than 300 calendar days from the last date on which the alleged activity occurred.
- c. Complaint forms or verbal complaints shall be submitted to the appropriate Academic Dean or Campus Provost, unless the recipient is named in the allegations, in which case the recipient shall be the next higher level authority:
- d. The Academic Dean or Campus Provost may elect to meet with the complainant if additional information is needed.
- e. The Academic Dean or Campus Provost shall review the complaint with the next higher level of authority and issue a written response as soon as a reasonable investigation can be concluded but no longer than 60 calendar days from the receipt of the complaint. In cases involving alleged sexual harassment, a written decision shall be simultaneously sent to the complainant/target and the alleged harasser.

2. Step 2

- a. If the complainant is not satisfied with the response received at Step 1, s/he may appeal the Step 1 written decision to the Judicial Officer within 10 business days from receipt of the Step 1 response.
- b. The Judicial Officer shall meet with the complainant, respondent, and any other parties deemed appropriate. The Officer shall review the complaint with the Executive Dean, Student Services, and issue a written response to the complainant/target and the alleged harasser within 10 business days from receipt of the complaint at Step 2. Findings in discrimination allegations shall be reported to the Affirmative Action Officer.

3. Step 3

If the complainant is not satisfied with the response received at Step 2, s/he may appeal the Step 2 written decision to the Executive Vice-President, Academic Affairs within 10 business days from receipt of the Step 2 response. The Executive Vice-President, Academic Affairs, or designee, may meet with the complainant, respondent, and any other parties deemed appropriate. A written response shall be issued to the complainant/target and the alleged harasser within 10 business days from receipt of the complaint at Step 3.

4. Step 4

If the complainant is not satisfied with the response received at Step 3, s/he may appeal the Step 2 written decision to the President within 10 business days from receipt of the Step 3 response. The President, or designee, may meet with the complainant, respondent, and any other parties deemed appropriate. A final written decision shall be issued within 10 business days to the complainant/target and the alleged harasser from receipt of the complaint at Step 4.

C. Discrimination/Harassment Complaints – Peer-to-Peer

1. If an individual believes s/he is being harassed on the basis of a protected status (as defined in Section I), s/he should make his/her objections known to the alleged harasser. If this fails to stop the objectionable behavior, or if the individual is not comfortable confronting the alleged harasser, s/he should immediately bring the matter to the attention of
 - i. Classroom/clinical setting – the attention of the instructor;
 - ii. Other setting on campus – the Academic Dean, Campus Provost or Judicial Officer.

A student who believes that s/he has been subjected to sexual harassment is not required to confront his/her alleged harasser, and may proceed immediately to filing a complaint with the appropriate Academic Dean or Campus Provost.

2. Discrimination/Harassment complaints may be filed in writing on the Discrimination/Harassment Complaint Form for Students or verbally.
3. Arrangements shall be made if the complainant/target of the harassment wishes to speak specifically to a male or female investigator.
4. The Judicial Officer shall investigate and proceed pursuant to the Student Code of Conduct ES 4630.

D. Investigation Procedures. All reported complaints shall be investigated, whether received verbally or in writing.

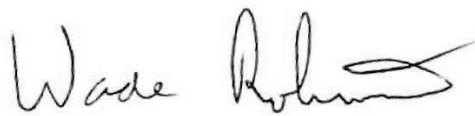
1. Investigators shall maintain the role of a neutral in the investigation process.
2. Investigations shall be conducted in a thorough and objective manner to determine the facts.
3. The investigator shall, at a minimum, interview the complaining party and/or target of the harassment (where the complaint is brought by a third party) and the accused student. Both parties shall be given equal opportunity to present oral and written evidence for the consideration of the investigator. The investigator will also interview witnesses identified by any party as having knowledge relating to the complaint, as necessary to conduct a reasonably thorough investigation of the complaint.
4. The standard for determining whether a violation occurred shall be whether it is supported by the preponderance of the evidence available to the investigator.

E. Information related to a complaint shall be kept confidential to the maximum extent possible. Selected information, including the name of the reporting party, may be disclosed as deemed necessary by the person in charge of the investigation.

F. Time limits may be extended by written mutual agreement of the parties. If a complainant fails to proceed to the next step within the prescribed time limits, the complaint shall be considered closed based upon the last response. If the administration fails to respond within the prescribed time limits, the complainant may proceed to the next step.

- G. In cases involving sexual harassment, both the complainant/target and the respondent shall be notified in writing of the outcome of the investigation and disciplinary process within five (5) school days of the conclusion of the process.
- H. The investigator may take interim actions, as defined by Section VII of Procedure ES 4630, where necessary to prevent or remediate any further harassment of the complainant/target or to protect safety of the complainant and other members of the campus community.
- I. For any hearing relating to charges of sexual harassment, the target of the harassment will have equivalent rights to attend the hearing and present evidence or testimony relating to the complaint. Where appropriate, alternative means of participation (including electronic means) may be provided so that the target of the harassment need not be in the same room as the respondent.
- J. Founded complaints of discrimination or harassment may result in discipline, up to and including expulsion (students) or termination (staff). The College reserves the right to issue other sanctions and/or remedial actions within its discretion to stop, prevent, and remedy any founded acts of discrimination or harassment.
- K. The College expressly prohibits the intentional filing of a false discrimination or harassment claim. An intentional false claim is different from a claim where the conclusion is unfounded or of no eventual determination. Retaliation is expressly prohibited, as stated in paragraph H below, against any individual who makes or participates in a complaint of discrimination or harassment—even if unfounded—as long as the complainant did not intentionally make a false report. The intentional filing of a false discrimination or harassment claim may result in sanctions according to Student Conduct, Discipline and Appeals, ES 4630.
- L. Retaliation against any individual because that person filed or participated in the investigation of a complaint of discrimination or harassment under this policy, is expressly prohibited. Any student or staff member who is found to have retaliated against another in violation of this policy will be subject to discipline up to and including suspension and expulsion or termination.

APPROVED:



Interim Executive Dean, Student Services

Date: 3-14-17



Senior Vice President, Academic Affairs

Date: 3-14-17



DISCRIMINATION/HARASSMENT COMPLAINT FORM for STUDENTS

Complainant Name _____ Student ID Number _____
Last First MI

Address _____
Street City/State ZIP Code

Home Telephone Number _____ Alternate Telephone Number _____

Department/Campus _____

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1. Date(s) of alleged discrimination/harassment:

 2. Name and title of person(s) committing the alleged discrimination/harassment:

 3. Basis of alleged discrimination/harassment (race, color, national origin, creed, religion, sex (including pregnancy and marital status), sexual orientation, gender identity, age, disability, genetic information, veteran status):

 4. Description of alleged discriminatory/harassment actions (attach additional pages if necessary):

 5. Witnesses:

 6. Describe how you believe you were harmed by the alleged discrimination/harassment:

 7. Requested remedy:

 8. Have you filed this complaint with any other agency? Yes No If "Yes", please complete the following:
Name of Agency _____
Date of Filing _____ Status of Complaint _____

Certification: I certify that the information given above is true and correct to the best of my knowledge.
Complainant Signature: _____ Date: _____

Step 1 – Academic Dean/Campus Provost Response

Date Complaint Received _____

Respondent Signature _____ Date _____

Distribution: Original - Complainant, Copies – Academic Dean, Campus Provost,, Judicial Officer, AA Officer

Step 2 - Judicial Officer Response

Date Complaint Received _____

Respondent Signature _____ Date _____

Distribution: Original - Complainant, Copies – Judicial Officer, Executive Dean, Student Services, Academic Dean/Campus Provost, AA Officer

Step 3 - Executive Vice-President, Academic Affairs or Designee Response

Date Complaint

Received _____

Respondent Signature _____ Date _____

Distribution: Original - Complainant, Copies - Executive Vice-President, Academic Affairs, Judicial Officer, Executive Dean, Student Services, Academic Dean/Campus Provost, AA Officer

Step 4 – President or Designee Response

Date Complaint Received _____

Respondent Signature _____ Date _____

Distribution: Original – Complainant, Copies – President, Executive Vice-President, Academic Affairs, Judicial Officer, Executive Dean, Student Services, Academic Dean/Campus Provost, AA Officer