

POLICIES AND PROCEDURES

Subject: Discrimination Resolution Process (DRP) Reference: F-V-s

Source: President Eff. Date: March 1, 2019

Approval Auth.: President Approved: _____

Remarks: Replaces previous policy dated August 27, 2018

Date: March 1, 2019

This policy provides the process to address illegal discrimination involving race, color, religion, national or ethnic origin, gender, disability, age, veteran status, genetic information, sexual orientation, gender identity, pregnancy, or other legally protected categories at McLennan Community College (MCC) for employees, students, visitors, and independent contractors, on the MCC campus or other property or facilities owned or used by the College.

Note: The Discrimination Resolution Process Policy Guide provides additional information to assist parties who are navigating this process. The guide is located on the college's website (<http://www.mclennan.edu/employees/policy-manual/docs/F-V-S1.pdf>) and in the Offices of the Title IX Coordinator, Human Resources Director, the EEO Officer, and the ADA Officer. Records of all allegations, investigations, resolutions, and hearings will be kept by the Chief Compliance Officer and the Office of Human Resources.

Reporting Discrimination

There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to McLennan Community College's jurisdiction, the ability to investigate, respond and provide remedies may be limited. Reports of discrimination, harassment and/or retaliation may be made using any of the following options:

- 1) **Title IX Coordinator:** Dr. Drew Canham, at 254-299-8645, Administration Building, Room 408 or titleix@mclennan.edu; Dr. Staci Taylor, Deputy Title IX Coordinator, at 254-299-8363, Learning Technology Center, Room 218c or staylor@mclennan.edu; Shawn Trochim, Deputy Title IX Coordinator, at 254-299-8511, Math, Fitness, and Wellness Building, Room 109 or strochim@mclennan.edu.

2) **Equal Employment Opportunity Officer:** Al Pollard, at 254-299-8669, Administration Building, Room 417 or apollard@mclennan.edu; Missy Kittner, Deputy EEO Officer, at 254-299-8514, Administration Building, Room 104 or mkittner@mclennan.edu;

3) **ADA Officers:** Dr. Drew Canham, at 254-299-8645, Administration Building, Room 408 or dcanham@mclennan.edu; Dr. Stephen Benson, at 254-299-8649, Administration Building, Room 410 or sbenson@mclennan.edu;

4) **Chief Compliance Officer:** Dr. Drew Canham, at 254-299-8645, Administration Building, Room 408 or dcanham@mclennan.edu, in addition to his role as the Vice President of Student Success, serves as the Chief Compliance Officer to coordinate implementation of this policy with other officers.

5) **Online:** <https://www.lighthouse-services.com/mclennan/>;

6) **Confidentially to the MCC Counseling Center:** 254-299-8210; or

7) **Emergencies:** Campus Police, 254-299-8911.

As it pertains to Title IX, MCC considers all employees to be Responsible Employees (except MCC Counseling Center staff).

Responsible Employees who are made aware of or suspect an occurrence which may be Title IX related must report that information to the Title IX Coordinator promptly. For example, it may be appropriate to notify your supervisor of a concern, but Responsible Employees must also contact the Title IX Coordinator promptly.

McLennan Community College is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the Discrimination Resolution Process at McLennan Community College. Anyone needing such accommodations or support should contact Disability Services (disabilities@mclennan.edu) or Human Resources (mkittner@mclennan.edu), who will review the request and, in consultation with the person requesting the accommodation and the Chief Compliance Officer, determine which accommodations are appropriate and necessary for full participation.

Retaliation

Retaliation against an individual for alleging harassment, supporting a party bringing an allegation, or for assisting in providing information relevant to a claim of harassment is a serious violation of McLennan Community College policy (*E-VIII, General Conduct Policy*) and will not be tolerated. Acts of alleged retaliation should be reported immediately to the Chief Compliance Officer and will be promptly investigated. McLennan Community College will take appropriate steps to protect individuals who fear they may be subjected to retaliation.

False Allegations

Deliberately false accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are subject to appropriate disciplinary action.

Discrimination Resolution Process (DRP)

McLennan Community College will act on all allegations of harassment or discrimination based on protected classes involving students or employees. Investigators have the authority to address all collateral misconduct, meaning that they can hear all allegations of discrimination, harassment, and retaliation, but also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within this policy.

The resolution process will be administered by the Chief Compliance Officer in consultation with the appropriate officer(s). Procedures will include a prompt preliminary inquiry to determine whether there is reasonable cause to believe policies have been violated. If so, McLennan Community College will initiate a discrete investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determines whether the nondiscrimination policy has been violated. If so, McLennan Community College will implement effective remedies designed to end the discrimination, prevent its recurrence, and address its effects.

1. Preliminary Inquiry

Following receipt of notice or a report of misconduct, the Chief Compliance Officer (or designee), in consultation with the appropriate officer(s), engages in a preliminary inquiry to determine whether there is reasonable cause to believe policies have been violated. If there is no reasonable cause to believe that policy has been violated, the process will end unless the reporting party requests the Chief Compliance Officer make an extraordinary determination to reopen the investigation. The preliminary inquiry is typically one to three (1-3) college business days in duration. Where policies have been violated the Chief Compliance Officer reserves the right to initiate appropriate remedies or resolution proceedings without a formal report or participation by the reporting party.

In cases where the reporting party wishes to proceed or McLennan Community College determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Chief Compliance Officer, in consultation with the appropriate officers, will direct a formal investigation to commence and the allegation will be resolved through this resolution process.

2. Remedies/Actions

McLennan Community College will maintain confidentiality regarding any accommodations or protective measures per the rights of the parties, (see Policy Guide) provided it does not impair the

College's ability to create a safe and nondiscriminatory environment.

Interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation may be provided to redress harm to the reporting and responding parties upon a finding of discrimination, harassment, or retaliation.

3. Investigation

Once a formal investigation is commenced, the Chief Compliance Officer will provide written notification of the investigation to the reporting and responding parties.

McLennan Community College strives to complete all investigations within a reasonably prompt period, which can be extended as necessary for appropriate cause by the Chief Compliance Officer (in consultation with ADA or EEO officers as appropriate) with notice to the parties as appropriate.

Once the decision is made to commence a formal investigation, the Chief Compliance Officer, in consultation with the President, appoints investigators to conduct the investigation, usually within two (2) college business days of determining an investigation should proceed. Investigations are completed expeditiously, normally within sixty (60) college business days, though some investigations take weeks or even months, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

McLennan Community College may undertake a short delay in its investigation (several days to weeks) to allow evidence collection when criminal charges based on the same behaviors that invoke this process are being investigated. McLennan Community College will promptly resume its investigation and resolution processes once notified by law enforcement the initial evidence collection process is complete. McLennan Community College action will not typically be altered or precluded because civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, impartial, prompt and fair. Investigations involve interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

At any point during the investigation, if it is determined there is no reasonable cause to believe that McLennan Community College policy has been violated, the Chief Compliance Officer (in consultation with ADA or EEO officers as appropriate), after consulting with the President, has authority to terminate the investigation and end resolution proceedings.

4. Advisors

Each party can have an advisor of her/his choice present with them for all DRP meetings and proceedings, from intake through final

determination. The Discrimination Resolution Process Policy Guide should be referenced for additional information.

5. Resolution

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with McLennan Community College policy. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

This process relies on the evidence, information and recommended findings within the investigation report to render a determination. Upon completion of the investigation, the investigator(s) will provide the Chief Compliance Officer with a written report summarizing the evidence gathered and examined, including an assessment of credibility of the parties and witnesses, an analysis of the information and recommended findings and outcomes (if applicable). The Chief Compliance officer (in consultation with ADA or EEO officers as appropriate), will conduct any additional necessary inquiry and then finalize a determination in accordance with the procedures below. The Chief Compliance Officer (in consultation with ADA or EEO officers as appropriate), will consider, but is not bound by, the recommendations of the investigators.

The Chief Compliance Officer, (in consultation with ADA or EEO officers as appropriate), will base determination(s) on the preponderance of the evidence, defined as whether it is more likely than not that the responding party violated policy as alleged.

The responding party may choose to admit responsibility for all or part of the alleged policy violations at any point during the investigation or resolution process. If the responding party admits responsibility, the Chief Compliance Officer, in consultation with the President, will render a determination that the individual is in violation of McLennan Community College policy.

Ultimately, a finding will be made as to whether a party is responsible for alleged violations. If the finding is not responsible, parties will be notified. Similarly, if the responding party admits the violation or is found in violation, the Chief Compliance Officer, (in consultation with the President and the ADA or EEO officers ~~others~~ as appropriate), will determine and implement appropriate outcomes, and act promptly and effectively to stop the harassment or discrimination, prevent its recurrence and remedy the effects of the discriminatory conduct. At this point, parties will be notified.

The Chief Compliance Officer will inform parties of the final determination within five (5) college business days of the resolution, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official McLennan Community College records, or emailed to the parties' McLennan

Community College email accounts. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

Responding parties found responsible will be notified of sanctions assigned. When appropriate, reporting parties will receive notification of remedies offered, any sanctions imposed on the responding party that directly relate to the reporting party, and any additional steps taken by the College to remedy the effects of discriminatory conduct. The notice will also include information about appellate options available and when the results are considered by McLennan Community College to be final. In addition, if any changes occur during the time period before an outcome is finalized, parties will be notified.

If the allegation(s) involve VAWA offenses (stalking, domestic violence, dating violence, or sexual assault), simultaneous notification of outcomes will specify the finding on each alleged policy violation and any outcomes and rationale that McLennan Community College is permitted to share according to state or federal law.

6. Outcomes (Sanctions, Conditions and Restrictions)

Factors considered when determining an outcome may include:

- The nature, severity of, and circumstances surrounding the violation;
- An individual's disciplinary history;
- Previous allegations or allegations involving similar conduct;
- The need for outcomes to bring an end to and prevent the future recurrence of discrimination, harassment and/or retaliation; and
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the reporting party and the community; and
- Any other information deemed relevant by investigators.

The Discrimination Resolution Process Policy Guide should be referenced for additional information.

7. Appeal

Any reporting or responding party may appeal. All requests for appellate consideration must be submitted in writing to the Chief Compliance Officer within five (5) college business days of the delivery of the Chief Compliance Officer's written finding.

An appellate review committee assigned from the Civil Rights Investigative team will be designated by the Chief Compliance Officer, in consultation with the President, from those who have not been involved in the process previously. Appeals are limited to the following grounds:

- A procedural error or omission that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original outcome. A summary of this new evidence and its potential impact must be included.
- The outcomes imposed by McLennan Community College are considered inappropriate related to the offense and circumstances surrounding it.

The appellate review committee will process the appeal request(s). The original finding and outcomes will stand if the appeal is not timely or is not based on the grounds listed above. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show that grounds have not been met, or that additional grounds are met. The original finding and outcome are presumed to have been decided reasonably and appropriately. When any party requests an appeal, the Chief Compliance Officer will share the appeal request with the other party or parties, who may file a response within five (5) college business days and/or bring their own appeal on separate grounds. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within five (5) college business days. These response or appeal requests will be shared with each party.

- The Chief Compliance Officer (in consultation with the ADA or EEO officers, as appropriate) will confer with the appellate review committee, incorporate the results of any remanded grounds, and render a written decision on the appeal to all parties within five (5) college business days of the resolution of the appeal or remand.
- All parties will be informed in writing within five (5) college business days of the outcome of the appellate review committee, without significant time delay between notifications, and in accordance with the standards for notice of outcome as defined above.
- In rare cases where a procedural or substantive error cannot be cured by the original investigator (as in cases of bias), the appellate review committee may recommend a new investigation, to include new investigators. The results of a remand cannot be appealed. The results of a new investigation can be appealed once on any of the three applicable grounds for appeals.

The appeal decision will be the final determination of McLennan Community College, subject to the right of either party to request a review of the appellate decision by the Board of Trustees of the College. Such request shall be made in writing through the President. The matter will be placed upon the Board's agenda and the parties may address the Board in accordance with the Board's policies. The record of the proceedings shall be made available to

the Board for its review prior to the meeting. The Board shall advise the President and parties of its decision either orally or in writing, or of further proceedings or actions, if any, desired by the Board.

If the Board takes no action, the decision shall be final. Any decision or action of the Board of Trustees shall be final.

The Discrimination Resolution Process Policy Guide should be referenced for additional information related to the appellate process.

8. Failure to Complete Sanctions, Conditions and Restrictions or Comply with Interim and Long-term Remedies

All parties are expected to comply with outcomes within the timeframe specified by the Chief Compliance Officer. Failure to abide by these outcomes by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions, conditions or restrictions and/or termination from McLennan Community College and may be noted on a student's official transcript and/or an employee's personnel file. A suspension will only be lifted when compliance is achieved to the satisfaction of the Chief Compliance Officer.

Revision

These policies and procedures will be reviewed and updated by the Chief Compliance Officer (in consultation with the ADA or EEO officers). McLennan Community College reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Chief Compliance Officer (in consultation with the ADA or EEO officers) may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Chief Compliance Officer (in consultation with the ADA and EEO officers and the President) may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the alleged offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Equal Employment Opportunity Commission (EEOC)

Contact: <http://www.eeoc.gov/contact/>

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