

Discrimination Resolution Process (DRP) Policy Guide

The following guide serves to assist individuals using the Discrimination Resolution Process (Policy F-V-s). Please contact Drew Canham, Chief Compliance Office, with questions related to this guide and its related process (254-299-8645 or dcanham@mclennan.edu).

The Rights of Parties associated with the Discrimination Resolution Process are located in Appendix A of this Guide.

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/>; this website provides an option to report sexual misconduct anonymously.
- 6) **Confidentially to the MCC Counseling Center:** 254-299-8210; or
- 7) **Emergencies:** Campus Police, 254-299-8911.

Amnesty for Reporting Party and Witnesses

McLennan Community College encourages parties to report misconduct and crimes. Sometimes, reporting parties or witnesses are reluctant to report to McLennan Community College officials, or participate in resolution processes because they fear they themselves may be accused of policy violations. It is in the best interests of this community that reporting parties choose to report to college officials, and that witnesses come forward to share what they know.

Students: Sometimes, students are hesitant to aid others for fear that they may get themselves in trouble. For example, a student who has been drinking

underage might hesitate to take a sexual misconduct victim to Campus Police. While policy violations cannot be overlooked, the College will provide educational outcomes, rather than punishment, to those who offer their assistance to others in need. Amnesty may also be granted to witnesses on a case-by-case basis.

Employees: Sometimes, employees are also hesitant to report harassment or discrimination they have experienced for fear that they themselves might be accused of wrongdoing. For example, an employee who has violated the consensual relationship policy and is then assaulted during the relationship might hesitate to report the incident to McLennan Community College officials. The institution, at its discretion, can offer employee reporting parties amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to witnesses on a case-by-case basis.

Discrimination Resolution Process (DRP)

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.

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.

McLennan Community College may interim suspend a student, employee or organization pending the completion of DRP investigation and procedures, particularly when in the judgment of the Chief Compliance Officer the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the option to meet with the Chief Compliance Officer prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Chief Compliance Officer has discretion to implement or stay an interim suspension and to determine its conditions and duration. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to McLennan Community College campus, facilities and events. As determined by the Chief Compliance Officer (in consultation with ADA or EEO officers as appropriate), this restriction can include classes, work and all other McLennan Community College activities or privileges for which the student or employee might otherwise be eligible. At the discretion

of the Chief Compliance Officer (in consultation with ADA or EEO officers as appropriate), alternative options to employment or coursework may be pursued to ensure as minimal an impact as possible on the parties.

Following the conclusion of DRP investigation, and in addition to any sanctions implemented, the Chief Compliance Officer may utilize long-term remedies or actions to stop the harassment or discrimination, remedy its effects and prevent their recurrence. Long-term remedies may also be provided even when the responding party is found not responsible.

Examples of Interim and Long Term remedies are provided in Appendix B of this Guide.

3. Investigation

The following additional details are provided to help clarify the typical investigation process outlined in the *Discrimination Resolution Policy* (F-V-s). The investigators and Chief Compliance Officer will typically take the following steps as part of an investigation process, if not already completed (not necessarily in this order):

- In coordination with campus partners (e.g., the Title IX officials, EEO or ADA officers), initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated. This process (DRP) can be utilized for any behavior that falls within college policies at any time during the process. 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. Accordingly, investigations should be conducted with as wide a scope as necessary;
- Assist the Chief Compliance Officer with an immediate preliminary inquiry to determine if there is reasonable cause to believe the responding party has violated policy;
- If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Prepare the allegation notice based on the preliminary inquiry;
- Meet with the reporting party to finalize his or her statement, if necessary;
- If possible, provide written notification to parties prior to interviews so they may have the assistance of an advisor of their choosing present for all meetings attended by the advisee;
- Provide reporting party and responding party with a written description of alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;

- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
- Continue to provide parties with resources and monitor climate for retaliation and other unhealthy behaviors;
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses;
- Provide parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;
- Share a draft report with the parties and allow them a period of time to comment before a report is finalized. The investigators may incorporate feedback from the parties as appropriate;
- Provide findings to the Chief Compliance Officer, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Chief Compliance Officer finalizes and presents the findings to the parties as required by law; and
- Provide opportunity for appeal.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the College's investigation. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone or Skype (or similar technology) if they cannot be interviewed in person or if the investigators determine timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation do not have the ability to offer evidence later during an appeal if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal based on new evidence.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other DRP proceedings.

Civil Rights Investigators

McLennan Community College's Civil Rights Investigators (Investigators) are trained in all aspects of the resolution process and can serve in any of the following roles at the direction of the Chief Compliance Officer:

- To provide sensitive intake for and initial advice pertaining to allegations;
- To investigate allegations;
- To act as process advisors to those involved in the Discrimination Resolution Process; and
- To serve on appellate reviews.

Investigators also recommend proactive policies, and serve in an educative role for the community. The Chief Compliance Officer, in consultation with the President, appoints investigators, who report to the Chief Compliance Officer.

Investigators are required to receive annual training organized by the Chief Compliance Officer, including a review of McLennan Community College policies and procedures as well as applicable federal and state laws and regulations so they can appropriately address allegations, and promote accountability.

4. Advisors

Each party can have an advisor of their choice present with them for all DRP meetings and proceedings, from intake through final determination. The parties may select whomever they wish to serve as their advisor if the advisor is eligible and available, and otherwise not involved in the resolution process. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the campus community. The parties may choose to proceed without an advisor, but that choice shall not subsequently be used as grounds for an appeal.

Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The College cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one.

All advisors are subject to the *General Conduct Policy*, notwithstanding whether they are attorneys. Advisors shall not address campus officials in a meeting or interview unless otherwise invited. The advisor shall not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and shall not speak on behalf of the advisee to the investigators. The parties are expected to ask and respond to questions on their own behalf without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, if they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the College an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution process. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Chief Compliance Officer will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The College expects that parties will wish to share documentation related to allegations with their advisors. The College provides a FERPA consent form that authorizes such sharing. The parties must complete this form before the College is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of records shared with them. These records shall not be shared with third parties, disclosed publicly, or used for

purposes not explicitly authorized by the College. The College may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

The College expects an advisor to adjust her or his schedule to allow them to attend college meetings when scheduled. The College does not typically change scheduled meetings to accommodate an advisor's inability to attend. The College will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process, and is not locked into using the same advisor throughout.

The parties must advise investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

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.

6. Outcomes (Sanctions, Conditions and Restrictions)

For specific examples of student and employee outcomes, see Appendix [C].

McLennan Community College may elect not to permit a student to withdraw if that student has an allegation pending for violation(s) of College policy. Should a student decide to leave and/or not participate in the DRP, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to McLennan Community College unless all outcomes have been satisfied. The College may restrict access to academic transcripts until the allegations and any related sanctions, conditions or restrictions have been resolved.

Should an employee resign with unresolved allegations pending, college records may reflect that status, and any McLennan Community College responses to future inquiries regarding employment references for that individual may indicate the former employee is ineligible for rehire.

7. Appeal

Where the appellate review committee finds that at least one of the grounds is met by at least one party, additional principles governing the appeals process will include the following:

- Decisions by the appellate review committee are to be deferential to the original decision, making changes to the finding only where there is clear error and to the outcome only if there is a compelling justification to do so.

- Appeals are not intended to be full re-hearings (de novo) of the allegations or investigation. In most cases, appeals are confined to a review of the written documentation or record of the investigation, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for committee members to substitute their judgment for that of the original investigator(s) merely because they disagree with findings and/or outcomes.
- Appeals granted based on new evidence should normally be remanded to the original investigator(s) for reconsideration. Other appeals may be remanded at the discretion of the Chief Compliance Officer or, in limited circumstances, heard by the appellate review committee.
- Outcomes imposed as the result of this process are stayed pending appellate results, unless the Chief Compliance Officer implements interim measures in extraordinary circumstances to assure health and safety, pending the outcome of the appeal.
- For students: Graduation, study abroad, internships/externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.

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.

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/>

Appendices

Appendix A: Rights of the Parties

- Parties associated with this Discrimination Resolution Process have:
- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to McLennan Community College administrators;
- The right to be informed in advance of any public release of information regarding the incident;
- The right not to have any personally identifiable information released to the public, without their consent;
- The right to be treated with respect by McLennan Community College officials;
- The right to have McLennan Community College policies and procedures followed without material deviation;
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right not to be discouraged by McLennan Community College officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by McLennan Community College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus employees in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report;
- The right to have reports of sexual misconduct or discrimination responded to promptly and with sensitivity by campus law enforcement and other campus officials;
- The right to be notified of available counseling, mental health, victim advocacy, health, student financial aid, visa and immigration assistance or other student services or employee resources, both on campus and in the community;
- The right to request a campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and employment and living situations after an alleged sexual misconduct or discrimination incident, if so requested by the party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
 - Assistance with housing resources;
 - Exam (paper, assignment) rescheduling;
 - Taking an incomplete in a class;
 - Transferring class sections;
 - Temporary withdrawal;

- Alternative course completion options;
- Assistance with on-campus employment situations.

- The right to have McLennan Community College maintain such accommodations for as long as necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide accommodations or protective measures;
- The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- The right to have irrelevant prior sexual history omitted as evidence;
- The right to regular updates on the status of the investigation and/or resolution;
- The right to have reports addressed by investigators who have received annual sexual misconduct and civil rights training;
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to meetings and/or interviews that are closed to the public;
- The right to request any McLennan Community College representative in the process be recused because of demonstrated bias or conflict of interest;
- The right to bring an advisor of the party's choosing to all phases of the investigation and resolution proceeding;
- The right to provide investigators with a list of potential questions to ask of witnesses, and the right to challenge findings;
- The right to submit an impact statement in writing to the investigators following a determination of responsibility, but prior to recommending outcomes;
- The right to be promptly informed of outcomes in writing, without undue delay between notifications to the parties; and
- The right to be informed in writing when a decision by McLennan Community College is considered final, any changes to the outcomes that occur before the decision is finalized, the right to appeal and the procedures for doing so.

Appendix B: Remedies

Interim

These remedies may include, but are not limited to:

- Referral to counseling services;
- Education to the community;
- Altering work arrangements for employees;
- Living arrangement adjustments;
- Providing campus escorts;
- Implementing contact limitations between the parties; and
- Offering adjustments to academic deadlines, course schedules, etc.

Long Term

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services;
- Education to the community;
- Permanently altering work arrangements for employees;
- Providing campus escorts;
- Climate surveys;
- Policy modification;
- Implementing long-term contact limitations between parties; and
- Offering adjustments to academic deadlines, course schedules, etc.

Appendix C: Outcomes

Student Outcomes (Disciplinary Sanctions, Conditions, and Restrictions)

Typical outcomes that may be assigned to students or organizations individually or in combination include:

1. Disciplinary Sanctions are defined as the primary outcome of the alleged violation. If found responsible, the range of sanctions include the following outcomes:
 - Disciplinary Reprimand: Disciplinary reprimand is an official written notification to the student that the action in question was misconduct.
 - Disciplinary Probation: Disciplinary probation is a period of time during which a student's conduct will be observed and reviewed. The student must demonstrate the ability to comply with college policies, rules, standards and any other requirement stipulated for the probationary period. Further instances of misconduct under the *General Conduct Policy* or the *Highlander Guide* during this period may result in additional sanctions, conditions and/or restrictions.
 - Deferred Disciplinary Suspension: Deferred disciplinary suspension is a timeframe where a disciplinary suspension may be deferred for a period of observation and review, but in no case will the deferred suspension be less than the remainder of the semester. Further instances of misconduct under the *General Conduct Policy* or the *Highlander Guide* during this period may result in additional sanctions, conditions and/or restrictions.
 - Disciplinary Suspension: Disciplinary suspension is a specific period of time in which a student may not participate in classes or college-related activities. Notification of disciplinary suspension will indicate the date suspension begins and the earliest date the application for student readmission will be considered. A registration hold will be placed on the student's account in order to prevent the student from returning to classes during this period. Further instances of misconduct under the *General Conduct Policy* or the *Highlander Guide* during this period may result in additional sanctions, conditions and/or restrictions. Readmission may be denied if the student's misconduct during the suspension would have warranted additional disciplinary action. If the student has failed to satisfy any sanctions, conditions and/or restrictions that have been imposed prior to an application for readmission, the student's readmission may be denied.

NOTE: Student organizations may also be subject to suspension of their organization's registration. Disciplinary suspension is a specific period of time in which a student organization's registration and privileges

of the organization are suspended. Upon written request by the registered student organization's representative, the Title IX Coordinator may consider whether to remove the notation of disciplinary suspension from the registration record of the student organization upon completion of the disciplinary suspension period. Notification of disciplinary suspension of an organization will indicate when the suspension begins and the earliest date the application for re-registration will be considered. An organization's request for re-registration may be denied if the organization's misconduct during the period of suspension would have warranted additional disciplinary action. If the organization has failed to satisfy any sanction(s), condition(s) and/or restriction(s) that have been imposed prior to an application for re-registration, the College may deny a re-registration request from the organization.

- Disciplinary Expulsion: Disciplinary expulsion is a bar against readmission and occurs when the student is permanently withdrawn and separated from MCC. The status of expulsion will be permanently shown on the student's academic record, including the transcript and/or student organization's registration. An administrative hold will be placed on the student's record by the Title IX Coordinator to prevent future registration.
 - Withholding grades, official transcript or degree;
 - Revocation of degree, denial of degree and/or withdrawal of diploma;
 - Other sanction(s) as deemed appropriate under the circumstances.
2. A condition is defined as a secondary component of a disciplinary sanction. A condition is usually an educational or personal element assigned in conjunction with sanctions. Examples of conditions include, but are not limited to:
- Personal and/or academic counseling.
 - Discretionary educational conditions and/or programs of educational service to the College and/or community.
 - Restitution or compensation for loss, damage, or injury that may take the form of appropriate service and/or monetary or material replacement.
 - Monetary assessment owed to MCC.
 - Completion of an alcohol or drug education program.
3. A restriction is defined as a secondary component of a disciplinary sanction. A restriction usually occurs in conjunction with sanctions and will usually be time specific. Some examples of restrictions include, but are not limited to:
- Revocation of parking privileges.
 - Denial of eligibility for holding office in registered student organizations.
 - Denial of participation in extracurricular activities.

- Prohibited access to MCC facilities and/or prohibited direct or indirect contact with members of the college community.
 - Loss of privileges on a temporary or permanent basis.
 - Withdrawal of college funding.
4. Violations involving the use of alcohol, narcotics or other drugs may result in notification of the parents/guardians of dependent students under the age of 21.

Employee Outcomes

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include:

- Warning - verbal or written;
- Performance Improvement/Management Process;
- Required counseling;
- Required training or education;
- Probation;
- Loss of annual pay increase;
- Loss of oversight or supervisory responsibility;
- Demotion;
- Suspension with pay;
- Suspension without pay;
- Termination; and
- McLennan Community College may assign any other outcomes deemed appropriate in addition to or in place of the above sanctions.