



## Policy and Procedure

**Policy Name:** Anti-Discrimination and Anti- Harassment Policy

**Responsible office:** Administration  
**Electronic copy of policy maintained by:** Administration  
**Date last posted (if applicable):** 8/1/2015  
**Approved by:** C. Wynd  
**Date Policy and Procedure was last updated:** 8/1/2015

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## Policy Statement

### I. Purpose of this Policy

MCCN is committed to maintaining a healthy and safe learning, living, educational, and working environment that is free from discrimination and harassment and to creating an environment that promotes responsibility, dignity, and respect.

This Anti-Discrimination and Anti-Harassment policy prohibits discrimination and harassment of any kind on the basis of race, creed, color, national origin (ancestry), religion, veteran status, age (40 years old or more), weight, height, marital status (past, present, or future), disability, genetic makeup/information, or any other class protected by law (referred to in this policy as “protected class” or “protected classes”). This Policy applies to both on-campus and off-campus conduct, academic, educational, co-curricular, and other MCCN programs. Any violation of this policy is strictly prohibited and will not be tolerated. Harassment, discrimination or retaliation against any student or by a student based on a protected class, whether or not it constitutes a violation of the law, is prohibited by and is a violation of this Policy.

This Policy is designed to comply with applicable state and federal laws. MCCN reserves the right to modify or deviate from this Policy when, in the sole judgment of MCCN, circumstances warrant, in order to protect the rights of the involved parties, or to comply with the law.

This Policy describes how MCCN typically responds to reports of violations based on any protected class. It also:

- Provides guidance for those who have been the alleged subject of such a violation; and
- Outlines MCCN's student disciplinary response to alleged violations.

### II. Scope of this Policy

This policy applies to all prohibited discrimination, harassment or retaliation based on protected classes by or against any MCCN student with the following exceptions:



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- Allegations of sexual discrimination, harassment or retaliation are governed by MCCN's Title IX policy. MCCN has a Title IX policy that prohibits discrimination, harassment, and retaliation on the basis of sex or gender (including sexual harassment, sexual misconduct), sexual orientation, gender identity or expression, or pregnancy, and prohibits Violence Against Women Act Offenses such as sexual assault, sexual misconduct, sexual violence, domestic violence, dating violence and stalking. Any alleged violations of the Title IX policy should be reported as set forth in that policy and the procedures under that policy will be followed, rather than this policy. This policy is not applicable to Title IX prohibited activity; and
- Allegations against MCCN employees (including faculty) of discrimination, harassment or retaliation are governed by Mount Carmel Health System's Human Resources Policy and Procedure Manual. The Compliance Officer will assist any person making an allegation of discrimination, harassment or retaliation against a MCCN employee with filing a complaint against the employee with Mount Carmel Health System.

### III. Definitions

- **Discrimination:** conduct that is based on a person's protected class that:
  - Adversely affects a term or condition of a person's employment, education, living environment or participation in a MCCN activity; or
  - Is used as a basis for or a motivating factor in decisions affecting the person's employment, education, living environment or participation in a MCCN activity.
- **Harassment:** conduct that is based on a person's protected class that has the purpose or effect of unreasonably interfering with a person's employment or educational experience or creates an intimidating, hostile, offensive working, educational or living environment.



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- **Retaliation:** retaliation against any person(s) who reports an alleged violation of this policy, brings a disciplinary complaint, pursues legal action, or participates in an investigation or is a witness in any investigation or proceeding is strictly prohibited and will not be tolerated.

### IV. Making a Report of Discrimination, Harassment, or Retaliation

A student who believes he/she has been subjected to discrimination, harassment or retaliation based on a protected class or anyone who believes a student has subjected that person to discrimination, harassment or retaliation based on any protected class is encouraged to report the incident to the Compliance Officer<sup>1</sup>. Reports may be made by the subject of the alleged violation of this Policy or others on their behalf. If such a report is made to an employee, other than the Compliance Officer, such person shall report the information to the Compliance Officer within 24 hours of receiving the information about the alleged incident. If the person making a report against a student is an employee, that person is expected to discuss the matter with his or her manager or Human Resources Representative.

The Compliance Officer will consider any Support Measures listed below in section VI after a complaint has been made. Once the Compliance Officer receives a report of an alleged violation of this Policy, the Compliance Officer will conduct a preliminary assessment of the report. If the accused is someone other than a student (e.g., a MCCN employee, vendor, contractor or subcontractor), the Compliance Officer will inform the complainant of the right to pursue a complaint using the appropriate process and refer and guide the complainant to the appropriate process. If the accused is a student at another college, the Compliance Officer will assist the student in reporting the conduct to the accused's home school. If the complaint is against a MCCN student, the Compliance Officer will conduct an investigation to determine whether there is reasonable cause to believe that a violation of this Policy has occurred, including the extent and severity of the violation. Every effort will be made to handle such reports

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<sup>1</sup> If at any time MCCN has more than one Compliance Officer, the term Compliance Officer in this Policy refers to all Compliance Officers.



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fairly, impartially and quickly. If the Compliance Officer believes there is reasonable cause to believe that a violation has occurred and the accused is a MCCN student, the complaint will be referred to the Disciplinary Process below<sup>2</sup>.

### V. Confidentiality

MCCN will preserve confidentiality to the extent consistent with applicable law.

### VI. Resources and Support Services

#### A. Support Measures

MCCN provides a number of support services, upon request, to students who have been the subjects of any alleged violation of this Policy. Students may request support services, such as changing academic, residential, working, and transportation circumstances, from the Compliance Officer. The decision whether and what support measures to provide is at the discretion of the Compliance Officer. No disciplinary complaint or investigation need occur before this option is available. The Compliance Officer will exercise discretion and sensitivity about sharing the identity of the subject when arranging for support services. The subject of the alleged violation can request these services at any time, even if the student initially declined the service.

These services include the following:

- Changing residence hall assignments so that neither party shares the same residence hall (available to residential students)
- Changing class assignments so that the parties do not share the same classes (available to instructional staff and students)
- Providing academic support services including tutoring
- Changing the students' work situation
- Transportation/parking options
- Prohibiting any contact between the parties
- Assisting the subject of the alleged violation in obtaining a MCCN no-contact

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<sup>2</sup> Complaints may also be filed with the United States Department of Education Office for Civil Rights.



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- order or a court-issued restraining order or other lawful order of protection
- Assist the student in contacting a support person such as a friend or parent if desired
- Provide information on medical and psychological resources available
- Change work conditions

To access support services, contact the Compliance Officer. The Compliance Officer is available during regular business hours throughout the year to meet with students who need information or guidance about violations of this Policy.

### **B. Protection Orders**

MCW Security, FMC Police and the Compliance Officer, are all available to assist the student in obtaining a MCCN no-contact order or a court-issued restraining order or other lawful order of protection.

After a protection order is issued, the protected party should provide a copy of the court order to the Associate Dean of Undergraduate Program or the Graduate Program, MCW Security and/or FMC Police. Any violation of the court order should be promptly reported to the police.

## **VII. Disciplinary Process**

If the accused is a MCCN student, a disciplinary complaint alleging a violation of this Policy may be filed with the Compliance Officer. Criminal investigations/prosecutions do not determine whether a violation of this Policy has occurred. MCCN reserves the right to pursue disciplinary action if MCCN believes there is sufficient information to proceed without the participation of the subject and regardless of whether a formal complaint has been filed. Disciplinary complaints may be filed at any time the accused is a student at MCCN.

**Summary Suspensions**—An accused student may be summarily suspended from campus pending the final outcome of the disciplinary proceedings. Summary



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suspension hearings are typically held within the first 48 hours of the filing of a disciplinary complaint. Summary suspensions may prohibit the student from all or part of MCCN property and activities or permit the student to remain only under specified conditions (e.g., no-contact orders).

**Disciplinary Hearings**—Disciplinary hearings for alleged violations of this Policy will be held before a trained Administrative Hearing Panel (two faculty and one staff member). The hearings are designed to provide a prompt, fair and impartial investigation and resolution of the complaint. The hearings are conducted by people who receive annual training on conducting a student disciplinary hearing that protects the safety of students and promotes accountability.

Both the subject and the accused are entitled to the same opportunity to file a written statement, to submit information and to present relevant witnesses. They may also have an advisor, who may be any person with no formal legal training. However, the advisor may not speak during the hearing. Confidential medical/counseling records will not be provided to the accused and are not admissible at any disciplinary proceeding. The questioning of the subject and accused will be conducted through the Administrative Hearing Panel.

MCCN will accommodate concerns for personal safety, well-being, and/ or concerns regarding confrontation among the complainant (and the subject if different from the complainant), the accused student(s) and other witnesses by providing separate facilities, by using a visual screen or permitting participation by video phone, video conferencing, written statement or other means.

**Standard of Review**—The standard of review used to determine responsibility on campus is a “preponderance” standard. This determination is based on the greater weight of the information and does not require a standard beyond a reasonable doubt.

**Disciplinary Sanctions**—Sanctions against a student who has violated this Policy include suspension, dismissal, expulsion from campus housing,



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educational intervention, no-contact orders, and restrictions from participating in extracurricular activities, and vary depending on the severity of the violation and the accused's conduct history.

**Appeal Process**— A student found to have violated this Policy has the right to appeal on the basis of alleged procedural error, new information and/or inappropriate sanction by filing a written appeal to the Associate Dean of the Undergraduate or Graduate Programs within fourteen (14) calendar days of the date of the determination.

**Interests of the Accused**—It must be recognized that the accused person in a MCCN investigation has legal and other rights, and that complaints in which each of the parties are members of the campus community are the most ethically and legally complex. A presumption of responsibility should not be made as the result of any allegations. In the event that a student is accused of a violation of this Policy and a disciplinary action is pursued, the accused will be encouraged to seek advice from a member of the MCCN community.

**Timeline**—MCCN is committed to addressing all complaints of violation of this Policy in a prompt and equitable manner. Upon receipt of a complaint, the Compliance Officer will generally conduct its initial review and assessment within 1 to 3 days, the Procedural Review within 3-5 days, and the disciplinary hearing within 21 calendar days. Appeals will be typically conducted within 21 calendar days following the disciplinary hearing. These timelines may be extended based upon the complexity, severity and extent of the misconduct or for good cause. The timelines may also be affected by the fall or spring break period and summer or fall terms.

**FERPA**--The Family Educational Rights and Privacy Act (FERPA) protects students' educational records. FERPA prohibits MCCN from releasing these records without the student's consent except in response to a lawful subpoena or as otherwise required or permitted by law.



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### **VIII. False Information**

It is a violation this Policy to file a knowingly false or malicious complaint of alleged discrimination, harassment and/or retaliation or knowingly supply false information in any investigation or discipline procedure.

### **XIV. Retaliation**

Any retaliatory action or conduct taken by any person against a person who has sought relief under this Policy is strictly prohibited and will be regarded as a violation of this Policy. Further, any form of retaliation against a person who reports suspected harassment or discrimination or participates in the investigation of suspected harassment or discrimination under this Policy is prohibited and is a separate violation of this Policy.