



## Blue Mountain Community College *Administrative Procedure*

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**Procedure Title: Non-Discrimination/Non-Harassment Procedure**  
**Procedure Number: 03-2003-0014**  
**Board Policy Reference: IV.B.1**

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**Accountable Administrator: President**  
**Position responsible for updating: AVP, Human Resources**  
**Original Date: January 1992**  
**Date Approved by Cabinet: 04-25-06**  
**Authorizing Signature: *Signed original on file***  
**Dated: 12-16-03; 04-27-06**  
**Date Posted on Web: 05-04-06; 07-10-08; 07-15-09**  
**Revised: 4-94; 6-03; 10-03; 03-06; 07-08; 07-09**  
**Reviewed: 07-08; 07-09**

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### **Procedure Narrative**

#### **Purpose/Principle/Definitions:**

It is the official policy of Blue Mountain Community College to prohibit discrimination, to inform individuals of their right to be free from such behaviors, and to promote the safety of all individuals at College Centers and activities. This policy covers students, staff, faculty, administrators, contractors, vendors, visitors, and guests in accordance with federal, state statutory and decisional law. The purpose of this policy is to reaffirm our commitment to equal employment opportunity and to provide a harassment-free work environment for all employees by:

1. Preventing the occurrence of harassment or discriminatory conduct of any kind, whether physical or verbal, committed by supervisors or non-supervisory personnel
2. Prohibiting employees/supervisors from pressuring students/subordinates to engage in certain behaviors or to adopt certain political positions in exchange for preferential treatment or in response to direct or indirect threats of retaliation.
3. Preventing sexual harassment, and other forms of prohibited harassment by anyone on any BMCC site.
4. Preventing conflicts of interest that might arise from consensual amorous relationships.
5. Assisting those affected and prevent retaliation for seeking information, assistance, or resolution.
6. Providing appropriate sanctions and consequences, up to and including termination or expulsion, for those who, by their actions, intentional or otherwise, practice, promote, or condone such behavior.

## **Parameters/Guidelines/Application/Limitations**

### **Sexual Harassment**

The College prohibits any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment, education, or participation in a Board of Education or College activity; or
2. Submission to, or rejection of, such conduct by an individual is used as a basis for employment or education decisions affecting such individuals; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work, education, or participation in Board of Education or College activities or creating an intimidating, hostile, or offensive environment.

In determining whether the alleged conduct constitutes sexual harassment, the College will look at the entire context and pattern of behavior. Regardless of intent, it is the effect and characteristics of the behavior that determine whether the behavior constitutes sexual harassment. One form of sexual harassment is any attempt to influence or coerce an unwilling person into a sexual relationship by misusing the authority in an employment or educational relationship. Sexual harassment differs from voluntary sexual relations in that sexual harassment involves coercion, threat, or unwanted sexual attention. Any behavior, whether verbal or physical, constitutes sexual harassment if:

1. There is a threat, overt or implicit, that any educational or employment decision may be affected by an unwillingness to grant, tolerate, or accept sexual attentions (those decisions may involve grades, recommendations, evaluations, or any other decisions about the requirements, terms, and conditions of employment or learning); this includes cooperative and consenting sexual factors in trade or apparent trade for educational or employment privileges; or
2. A person is required to grant, tolerate, or accept sexual attentions as a condition of employment or learning; or
3. The behavior creates an environment which is intimidating, hostile, or offensive for members of one sex, and thus interferes with a person's ability to work or learn; or
4. Any educational or employment decision has been affected by a person's refusal to submit to or tolerate inappropriate sexual behavior.

### **Consensual Amorous Relationships**

The College prohibits any consensual amorous relationships involving a faculty member/instructor and a student, or between supervisor and employee, where the faculty member/instructor or supervisor has direct authority, influence, or responsibility with regard to that student or employee. Such authority, influence, or responsibility includes, but is not limited to in the employment setting, carrying out assignments, evaluations, and promotion or disciplinary decision. In the instructional setting, such authority includes being responsible for a student's evaluation and grading, awarding of

financial aid, or employment offers. The authoritative position of one party may create an environment that diminishes the freedom of the other to alter or terminate the relationship. Third parties may also be injured by a sexual relationship between two parties if they are denied privileges that accrue to those who participate in the relationship.

## **Retaliation**

Retaliation or retribution of any kind taken against an individual as a result of that person's filing a complaint, requesting information, cooperating in an investigation, or otherwise participating in these procedures is strictly prohibited. Individuals who have not filed a formal complaint but who have informally expressed concern about a violation of this policy still may file a complaint about retaliation that they believe has occurred as a result of their expressed concern.

Retaliation is separate and distinct violation under this policy and the law. Any person found to have violated this policy of non-retaliation is subject to disciplinary action up to and including termination or expulsion.

## **Reporting**

The College has the responsibility to prevent sexual and other types of discrimination in the workplace and academic environments and to take appropriate action when harassment has occurred or is occurring. Therefore, the College has the responsibility to initiate an investigation into alleged incidents of harassment, even if no formal or informal complaint has been filed.

In the case of an allegation of or questions about harassment, a variety of people are available for consultation. They are: President; Vice President of Operations; AVP, Human Services; AVP of Student Enrollment Management; and the complainant's supervisor and advisor. The person contacted will provide advice and intervention with as much confidentiality as possible. If an employee not listed above becomes informally aware that harassment is or may be occurring, s/he should contact one of the above-mentioned parties to pass on the information.

## **Supervisory Responsibility**

Individuals in positions of authority such as faculty, administrators, supervisors, and coaches are legally agents of the College. Therefore, when they receive a complaint under this policy or have reason to believe that a violation of this policy has occurred, they shall confer with the AVP for Human Resources within seven (7) calendar days to discuss possible solutions.

A person in a position of authority who is made aware of, or in the exercise of reasonable care should have knowledge of, a violation of this policy by a person under her or his authority or supervision and who fails to take appropriate action also is subject to disciplinary action and may be subject to legal action.

## **Confidentiality**

Faculty, supervisors, and administrators to whom a complaint is brought, maintain confidentiality of all documentation and protect the privacy of all parties to the greatest extent possible insofar as it does not interfere with the College's obligation to investigate and address the allegations of misconduct or interfere with required disclosure under law.

If an investigation is initiated as a result of a complaint, it may be necessary to reveal the names of the complainant or other case specifics to the supervisor and/or other involved parties when seeking information or, if substantiated, when imposing sanctions.

## **Informal Complaints**

Students and employees who are experiencing sexual harassment, discrimination, or other policy violations, but who wish to achieve an informal solution to the problem, may request that their complaints be resolved through the appropriate supervisory levels within the College. An informal complaint need not be made in writing. However, it is recommended that the person to whom the complaint is reported shall document the complaint by taking notes and clarifying them as necessary with the complaining party. If a mutually acceptable solution cannot be reached through the appropriate supervisor levels, complainants may file a formal complaint through the College administration. Informal complaints will be investigated by the College with due diligence.

## **Formal Complaints**

A formal complaint shall be submitted to the AVP of Human Resources in writing; be dated and signed by the complainant and contain a description of the alleged policy violation, the identify of the person alleged to have violated the policy, and to the best of the complainant's recollection, the date(s), time(s), and location(s) of the act(s). Formal complaints will be investigated by the College with due diligence.