

PROCEDURES MEMORANDUMS

TO: MCC Students and Staff

FROM: Office of the President

SUBJECT: Student Grievance Procedure for Alleged Discrimination

DATE: May 29, 2008

PURPOSE: To establish procedures and responsibilities respecting grievances of prospective, present and former MCC students alleging discrimination on the part of the College or in the course of the College's programs or activities.

APPLICABILITY: This grievance procedure shall be applicable to prospective, present and former students of the College who raise or file grievances alleging discrimination. This grievance procedure shall not apply if the matter or controversy in issue is governed by a separate procedure established by the College, such as the Policy Prohibiting Harassment of Students (Procedures Memorandum V-2).

1. Applicable Laws

- A. The Civil Rights Act of 1964, as amended. Title VI of this Act prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance (which includes the College). Title VII of this Act prohibits discrimination on the basis of race, color, religion, sex, or national origin in employment.
- B. Title IX of the Education Amendments of 1972, as amended prohibits discrimination on the basis of sex in any education program or activity receiving Federal financial assistance (which includes the College).
- C. The Americans with Disabilities Act (ADA) prohibits certain types of discrimination in employment and in the provision of public services – because of disability – against an otherwise qualified individual with a disability.
- D. The Age Discrimination in Employment Act, as amended, prohibits certain types of age discrimination in employment against persons who are at least age 40.
- E. The Age Discrimination Act of 1975, as amended, prohibits, in certain circumstances, discrimination on the basis of age in programs or activities receiving Federal financial assistance (which includes the College).
- F. Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination solely on the basis of disability against an otherwise qualified

individual with a disability in any program or activity receiving Federal financial assistance (which includes the College).

- G. The Immigration and Nationality Act, as amended, prohibits citizenship status discrimination in employment against lawful permanent residents, temporary residents, asylees and refugees, and U.S. citizens.
- H. Nebraska State Law contains prohibitions similar – but not identical – to a number of the prohibitions on employment discrimination listed above. Those prohibitions of Nebraska State Law are found in the Nebraska Fair Employment Practice Act and the Nebraska Act Prohibiting Unjust Discrimination Because of Age. The Nebraska Equal Opportunity in Postsecondary Education Act also prohibits discrimination based on sex, pregnancy, marital status, or the condition of being a parent.

The foregoing descriptions of applicable laws are of necessity very brief. Additional information concerning the laws may be obtained at one or more of the following web sites:

U.S. Department of Education, Office for Civil Rights
<http://www.ed.gov/offices/OCR/publications.html>

U.S. Equal Employment Opportunity Commission
<http://www.eeoc.gov>

U.S. Department of Labor
<http://www.dol.gov>

U.S. Department of Justice, Civil Rights Division
<http://www.usdoj.gov/crt/osc>

Nebraska Equal Opportunity Commission
<http://www.state.ne.us/home/NEOC>

Nebraska Revised Statutes
<http://statutes.unicam.state.ne.us/>

2. Definitions

- A. MCC Equal Opportunity Policy Statement – Metropolitan Community College shall not unlawfully discriminate on the basis of race, color, religion, sex, national origin, age, disability, pregnancy, marital status, parental status or citizenship status; and stating that the College fully supports the mandate that equal opportunity be extended to all persons lawfully seeking to enjoy the benefits of employment by the College and of the College’s programs, activities and services, including employees, job applicants and prospective and currently enrolled students.

- B. Grievance – As used herein, a grievance is an allegation by a prospective, present or former student of the College that the student or applicant for admission (grievant) has been adversely affected by unlawful discrimination – in or with respect to one or more of the College’s programs, activities or services – on the basis of or because of race, color, religion, sex, national origin, age, disability, pregnancy, marital status, parental status or citizenship status.

3. Responsibilities

- A. It is the responsibility of each principal administrative officer, dean, department head, and supervisor to ensure an academic environment free from unlawful discrimination.
- B. The Vice President of Campuses and Student Affairs has the overall responsibility for ensuring that student grievances are promptly investigated and corrective action taken when appropriate.

4. General

Metropolitan Community College complies with the laws listed in Section 1, related Executive Orders, and other applicable Federal and State Laws regarding non-discrimination. Grievances alleging discrimination will be promptly investigated and corrective action taken. Procedures for handling grievances will incorporate due process standards to the extent practicable.

5. Procedures

- A. Any prospective, present or former student of the College who believes he or she has been subjected to unlawful discrimination should report the matter to the Campus Dean of the campus where the alleged discrimination occurred by completing a form available for that purpose. If the grievance involves the Campus Dean, the grievant may notify the Associate Vice President of Human Resources, who will in turn notify the supervisor of the Campus Dean. Forms may be obtained and grievances filed at the Office of the Campus Dean on the Fort Omaha Campus, the South Omaha Campus, or the Elkhorn Valley Campus. If the alleged discrimination occurred at any location other than on one of those three campuses, the form should be filed with the Associate Vice President of Human Resources, who will refer it to an appropriate College official for further action. The form to be used is entitled "Student Grievance Alleging Discrimination" (Available on Public Folders, Blank Forms or at the Vice President of Campuses and Student Affairs Office.)
- B. Any prospective, present or former student of the College who feels that he/she has been or is being subjected to conduct that is unlawful discrimination under the laws listed in Section 1, related Executive Orders, or other applicable Federal or State Laws regarding non-discrimination, or the MCC Equal Opportunity Policy Statement should, in addition to immediately reporting the grievance, keep a

detailed documentary record (diary) of the alleged discrimination, what was said and done, names of any witnesses to the incident and similar detailed information.

- C. Upon written notification of a grievance filed by a grievant, the appropriate Campus Dean shall take immediate and appropriate investigative and corrective action. Should the grievant refuse to document his/her complaint in writing, the Campus Dean will consult with the Associate Vice President of Human Resources before proceeding.
- D. Level I (Campus Dean) – Upon receipt of a completed Student Grievance Alleging Discrimination form, the Campus Dean shall endeavor to arrange an informal conference with the grievant within seven (7) calendar days. The Campus Dean shall endeavor to investigate the matter and provide the grievant a written response within ten (10) calendar days after the informal conference if practicable. If the grievant is not satisfied with the response, he/she may appeal the grievance within five (5) calendar days after the Campus Dean response by submitting a written appeal to the Vice President of Campuses and Student Affairs, indicating in writing that the grievant wishes to proceed to the next higher level for resolution. The written appeal to the Vice President of Campuses and Student Affairs must contain a clear and concise statement of the reason for the appeal, including the reason why the Campus Dean's decision is believed to have been erroneous, as well as copies of the original grievance and the Campus Dean's response.
- E. Level II (Vice President of Campuses and Student Affairs) – Upon receipt from the grievant of a written appeal together with a copy of the original grievance and the Campus Dean' response, the Vice President of Campuses and Student Affairs shall endeavor to arrange an informal conference with the grievant. The conference should take place within seven (7) calendar days after receiving the appeal, if practicable. The Vice President shall endeavor to investigate the matter and provide the grievant with a written response within ten (10) calendar days after the informal conference. If the grievant is not satisfied with the response of the Vice President, he/she may appeal the grievance within five (5) calendar days after the Vice President of Campuses and Student Affairs' response by submitting a written appeal to the College President, indicating in writing that the grievant wishes to proceed to the next higher level for resolution. The written appeal to the College President must contain a clear and concise statement of the reason for the appeal, including the reason why the Vice President of Campuses and Student Affairs' decision is believed to have been erroneous, as well copies of the original grievance, the Campus Dean' response, the appeal to the Vice President of Campuses and Student Affairs, and the Vice President of Campuses and Student Affairs' response.
- F. Level III (College President) – Upon receipt from the grievant of a written appeal with copies of the original grievance, the Campus Dean' response, the appeal to the Vice President of Campuses and Student Affairs, and the Vice President of Campuses and Student Affairs ' response, the President or his/her designee may

elect to review the appeal by (1) a review of the record, (2) requesting a personal conference, and/or (3) appointing an ad hoc committee to investigate the matter and make an advisory recommendation to the President. The President will endeavor to provide the grievant with a response within ten (10) calendar days after receipt of the written appeal if a review of the record is elected; or within ten (10) calendar days after the date of the personal conference if that method is elected; or within twenty (20) calendar days after the appointment of an ad hoc committee if that method is elected. If the grievant is not satisfied with the response of the College President, he/she may appeal his/her grievance to the Board of Governors within five (5) calendar days after the College President's response by indicating in writing that the grievant wishes to proceed to the next higher level for resolution. The written appeal to the Board of Governors shall be delivered to the College President and must contain a clear and concise statement of the reason for the appeal, including the reason why the President's decision is believed to have been erroneous, as well copies of the original grievance, the Campus Dean response, the appeal to the Dean of Student Services, the Vice President of Campuses and Student Affairs' response, the appeal to the College President, and the College President's response.

- G. Level IV (Board of Governors) – Upon receipt from the grievant of a written appeal together with copies of the original grievance and of the appeals and the responses at each of the previous levels, the President will forward the appeal documents to the Chair of the College's Board of Governors. The Board, at its sole discretion, may elect to review or not to review the case. If the Board elects to review the case the Board may, in its discretion, (1) review the case solely on the basis of the record of the prior proceedings of the case, or (2) call the case before the Board for a full or partial hearing, in which case the grievant shall appear at the hearing and respond to any questions the Board may have. The Board shall, if practicable, endeavor to render its decision within ten (10) calendar days after the Board's consideration of the record of the prior proceedings or after the hearing, whichever is applicable. The Board's decision on the matter, or its decision not to hear and decide the matter, as case may be, shall be final under this grievance procedure.

6. Miscellaneous Provisions

- A. Identification – All written notifications and appeals shall include the name, address, telephone number and position of the party authoring or presenting the document or the appeal.
- B. Informal discussion – Nothing in this procedures memorandum shall limit the right of the grievant at any time or any level to discuss the matter informally with the Campus Dean and have the grievance informally adjusted.
- C. Hearings and conferences closed – All hearings and conferences under this procedure shall be conducted in closed sessions without electronic recording or other transcript, and shall include the person or body conducting the hearing or conference, the grievant, the grievant's designated representative, personnel of the

College Area who are involved or necessary, witnesses, and the College Area's representative.

- D. Administrative designees – During such time as any administrator designee is incapacitated or may otherwise be absent from the campus for a period of time, the College President may designate a substitute administrator of the same or higher managerial level in his/her place and stead to do all things required to be performed by him/her under this grievance procedure.
- E. Public statements – Except for such simple announcements as may be required covering the time of hearings and similar matters, public statements and publicity respecting a grievance shall, to the maximum extent practicable, be avoided by all parties until after all College proceedings have been concluded. This shall not, however, preclude the College from publicly responding to public pronouncements, statements or disclosures of the student or his/her representative if the College deems such a public response to be appropriate.
- F. Delivery of Notices – When filing a grievance, requesting or making an appeal, or responding to a grievance or appeal, it is the responsibility of the filer, requester, maker or responder to ensure that the person(s) designated to receive the required document(s) actually and timely receives it/them.

Adopted 2/15/84; Revised 2/1/02, 6/5/06; 5/29/08