

WAYNE COUNTY COMMUNITY COLLEGE DISTRICT
EQUAL OPPORTUNITY, NON-DISCRIMINATION,
AND ANTI-HARASSMENT POLICY

I. Equal Opportunity

Wayne County Community College District (“WCCCD” or the “College”) is committed to implementing its policy of equal opportunity for all employees, faculty, and students. The College does not discriminate on the basis of race, color, national origin, age, marital status, sex, sexual orientation, gender identity, gender expression, disability, religion, height, weight, or veteran status with respect to its provision and protection of employment and educational opportunities.

A. Equal Employment Opportunity Statement

Equal Employment Opportunity has been, and will continue to be, a fundamental principle at WCCCD, where employment is based upon qualifications and individual performance without discrimination because of race, color, national origin, age, marital status, sex, sexual orientation, gender identity, gender expression, disability, religion, height, weight, or veteran status. It is our policy to comply with all pertinent local, state, and federal rules and regulations governing fair employment. It is WCCCD policy to affirmatively promote a system which ensures that equal opportunity is not only a work principle but also an end result.

This policy of Equal Employment Opportunity applies to all terms and conditions of employment, including but not limited to hiring, training, promotion, compensation, discipline and termination.

Each WCCCD employee must adhere to the mandate of Equal Employment Opportunity as an integral part of WCCCD’s culture and its procedures. Equal Employment Opportunity is also the law. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

B. Equal Education Opportunity Statement

WCCCD is committed to providing an educational environment and culture that maximizes the learning potential of all students. It is WCCCD policy to comply with all pertinent local, state, and federal rules and regulations governing equal access to education. To this end, it is the policy of the College to provide equal educational opportunities to all applicants and students without regard to race, color, national origin, age, marital status, sex, sexual orientation, gender identity, gender expression, disability, religion, height, weight, or veteran status in accordance with applicable federal and state laws.

This policy of Equal Education Opportunity applies to all terms and conditions of student admissions, academic evaluations, participation in academic courses, programs, or activities and discipline.

II. Non-Discrimination and Anti-Harassment Policy: How We Actualize and Secure the Commitment to Equal Opportunity in Employment and Education

WCCCD is committed to providing a workplace and academic environment free from discrimination and harassment, one in which the College endeavors to provide a level playing field for each of its employees, faculty members, students and contractors. The environment of the College should be characterized by mutual trust and the absence of intimidation, hostility, and demeaning conduct. The accomplishment of this goal is essential to the mission of the College. For that reason, WCCCD will not tolerate unlawful discrimination or harassment. Through its enforcement of this policy, and by education of its employees and students, WCCCD will actively prevent, correct, and discipline conduct that contravenes this policy.

This policy is designed to provide a safe and non-discriminatory educational and work environment, and to comply with all pertinent legal requirements, including but not limited to, Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in educational programs or activities; relevant sections of the Violence Against Women Reauthorization Act; relevant sections of the Clery Act; Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance; Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex, and national origin in employment; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, which both prohibit discrimination on the basis of disability; Michigan's Elliot-Larsen Civil Rights Act of 1976, our state law which prohibits discrimination in both the employment and education contexts on the basis of race, color, religion, national origin, age, sex, height, weight, and marital status; and other related laws.

A. Prohibition of Sexual and Gender-Based Harassment

The College is committed to maintaining a safe and compliant educational and work environment in which no WCCCD executive officer or administrator, employee, faculty member, student, contractor or visitor ("WCCCD community members") is, on the basis of sex, sexual orientation, or gender identity, excluded from participation in, denied the benefits of, or subjected to discrimination in any WCCCD program or activity. Gender-based and sexual harassment, including sexual violence, are forms of unlawful sex discrimination. They deprive individuals of their rights to participate in, or benefit from, their association with the College. As one part of its commitment to the provision of equal employment and educational opportunities, the College seeks to work in partnership with its students and employees in order to engage in the prevention of sexual harassment.

Also essential to actualizing its commitment to this policy, and aligned with proactive leadership, WCCCD provides training to WCCCD's leadership and administrators charged with the responsibility of enforcing the prohibition of sexual harassment. This policy is also applicable to and governs the conduct of officers, administrators, employees, and independent contractors. In pertinent part, this policy is applicable to all students. It provides specific guidance to them regarding what affirmative measures they should take in response to being a recipient of perceived or actual sexual harassment.

1. Definition of Sexual Harassment

Sexual harassment is a form of unlawful sexual discrimination. It is prohibited by various laws including Title VII, ELCRA, and Title IX; it is also prohibited under the WCCCD's Prohibition of Sexual and Gender-Based Harassment Policy.

Sexual harassment is legally defined as unwelcome conduct of a sexual nature, and includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic, or physical conduct of a sexual nature, when:

(1) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing, or is used as the basis for employment decisions or for academic evaluation, or advancement. This is known as Quid Pro Quo harassment; or

(2) such advances, requests or conduct are sufficiently severe or pervasive, and have the effect of unreasonably interfering with, or otherwise limiting a person's ability to perform his or her employment duties, or prevents that person from participating in, or benefitting from, the College's education programs or activities. This is known as Hostile Environment harassment.

“Quid Pro Quo” (a Latin phrase meaning “something for something”) harassment occurs when employment or academic benefits such as raises, promotions, better working conditions, grades, or recommendations are directly linked to compliance with sexual advances, by someone in a supervisory capacity or who otherwise has the authority or power to either grant or deny such benefits. Quid pro quo is often known as the “put out or get out” bargain, the classic sexual harassment situation. In the employment context, only management or supervisory employees, i.e., someone who can make or bring about tangible employment actions such as firing, demoting, blocking promotions, transferring, or providing performance evaluations, can commit this kind of unlawful sexual harassment. In the education context, quid pro quo harassment occurs when any College employee explicitly or implicitly conditions a student's participation in an education program or activity or bases an educational decision on the student's submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature. To put it differently, anyone in the organization with the power and authority to affect the victim's terms and conditions of employment or education can potentially create quid pro quo harassment.

“Hostile Environment” consists of severe or pervasive conduct which alters the conditions of an individual’s employment or education, and creates an intimidating, hostile, or otherwise offensive working environment. A hostile work environment can be created or caused by anyone in the work environment, including by supervisors, other employees, or third parties (e.g., vendors or visitors). A hostile educational environment can be created by anyone in the educational environment, including by other students, teachers, administrators, or third parties. For example, a student can sexually harass a teacher.

Hostile environment harassment may consist of words or verbal expressions of a sexual nature, offensive sexual materials, unwelcome and/or unconsented to physical contact or physical proximity which encroaches upon an individual’s personal space – all making the work or educational environment toxic. Texts, e-mails, cartoons, or posters of a sexual nature, vulgar or lewd comments or jokes, or unwanted touching may all create a hostile work environment. A hostile environment can also be created by abusive and demeaning conduct which is pervasive, or by a single severe incident.

Whether the conduct is severe or pervasive enough to create a hostile environment depends upon a variety of factors. These include: (1) the degree to which the conduct affected one or more person’s education or employment; (2) the type, frequency, and duration of the conduct; (3) the relationship between the parties; and (4) the context in which the conduct occurred.

The use of sexual stereotypes, or gender-based harassment, may also result in the creation of a hostile work environment. Gender-based harassment is verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation, or gender identity. The conduct does not need to be sexual in nature. The conduct must be so sufficiently severe or pervasive that it interferes with or limits a person’s ability to participate in, or benefit from, the WCCCD workplace or education programs or activities. For example, sexual harassment may consist of a male supervisor’s persistent comments to a female subordinate employee that: “you look better in skirts, what’s with the pants thing? It looks like you have a dyke thing going on.”

It is important to note that sexual harassment may occur between persons of the same gender and persons of different genders. Harassment against an individual identifying as bisexual or transgender may also constitute sexual harassment.

2. Examples

The following examples are illustrative, and are not exclusive, of the various forms of sexual harassment:

- **“Verbal sexual harassment”** includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, vulgar remarks, and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); and verbal abuse or “joking” that is sexual in nature and unwelcome, offensive, or demeaning.

- **“Nonverbal sexual harassment”** includes the distribution, display, or discussion of any written or graphic material, including calendars, posters, and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds, leering, staring, whistling, obscene gestures; certain content in letters and notes, facsimiles, e-mail, photos, text messages, tweets and Internet postings, or other forms of communication that are sexual in nature and offensive, sharing visual or auditory records of sexual activity or nudity, and stalking.
 - **“Physical sexual harassment”** includes unwelcome, unwanted physical contact, including touching, pinching, hugging, cornering, kissing, fondling, sexualized assault and battery, or rape.
3. The Alleged Harasser’s Intention is Not Controlling

While this policy certainly proscribes intentional conduct, it equally prohibits conduct that results in a person being made to feel diminished, degraded or marginalized even if such negative effects were alleged to have been unintended by the perpetrator. Courts assess behavior through the eyes of the victim and not through the intention of the alleged harasser. In other words, unwelcome conduct is viewed not by what the speaker intended, but by how someone was affected by that person’s conduct.

III. Consensual Romantic or Sexual Relationships

A. Relationships Between Employees That Are Subject to Mandatory Reporting

WCCCD strongly discourages romantic or sexual relationships between a manager or other supervisory employee and his or her employees who report directly or indirectly to that person because such relationships tend to create irreconcilable conflicts of interest, or the appearance of such conflicts. Such a relationship may also give rise to the perception by others that employment decisions are predicated on favoritism or other bias. Given the uneven balance of power within such relationships, consent by the subordinate employee is always suspect, and may be viewed by others, or at a later date, by the employee as having been given only as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion, or exploitation undermines the spirit of trust and mutual respect that is essential to the College’s healthy work environment. If there is such a relationship, the parties need to be aware that one or both may be moved to a different department, or other corrective action may be taken.

If any managerial or supervisory employee of the College enters into a consensual relationship that is romantic or sexual in nature with an employee who reports directly or indirectly to him or her, or if one of the parties is in a supervisory capacity in the same department in which the other party works, the parties must immediately notify the Vice Chancellor of Human Resources of the relationship. The Vice Chancellor of Human Resources will review the situation in light of all pertinent facts, and will determine what corrective action, if any, is necessary.

A report or complaint of sexual harassment arising out of such a relationship will be investigated under these policies and procedures in the same manner as any other complaint.

B. Relationships Between Faculty/Administrators/Employees and Students

Romantic relationships, even those based on mutual consent, between faculty and current students, or between administrative employees and current students, are a basic violation of professional ethics and responsibility when the faculty member or administrative employee has any professional responsibility for the student's academic performance or professional future.

Romantic or sexual relationships between faculty/administrative employees and current students, which occur outside of the instructional or supervisory context, may also result in adverse consequences. It is the position of WCCCD that the asymmetry of the faculty-student or administrative employee-student relationship means that any sexual relationship between a faculty member and a current student, or administrative employee and a current student, is inherently exploitative and therefore prohibited. Any faculty member or administrative employee who has been found to be in violation of this policy will be subject to disciplinary action, up to and including immediate discharge.

IV. Prohibition of All Other Forms of Harassment

Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an employee, faculty member, student or contractor on account of his or her race, color, national origin, age, marital or familial status, disability, religion, height, weight, or veteran status or any other characteristic protected by law, where such conduct:

1. Has the purpose or effect of creating an intimidating, hostile or offensive environment; or
2. Has the purpose or effect of unreasonably interfering with an individual's employment or academic performance; or
3. Otherwise adversely affects an individual's employment or academic opportunities.

Examples of such harassment include, but are not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes and display or circulation in the workplace, online or on campus, of written or graphic material that disparages or shows hostility or aversion toward an individual or group (including through e-mail or text message); the use of physical objects that are inherently harassing or intimidating in nature, such as a Confederate flag, a noose, or a Nazi flag with a swastika.

The following list is not exhaustive, but is included to provide examples of prohibited behavior or conduct:

- A qualified employee or student is excluded from being considered for a promotion or

admission due to his racial or ethnic background;

- Depending on a number of factors, including context and/or intention, an employee, faculty member or student who refers to any minority or member of another protected class by inflammatory and disparaging epithets or stereotypes such as “nigger,” “porch monkey,” “kike,” “sheeny,” “himey,” “camel jockey,” “towel head”, “spic,” “taco head”, “queer,” or “cripple.”
- An employee, faculty member or student circulates or shares inflammatory, deprecating comments or stereotypes about someone’s religion, ethnic background, age, or disability, such as commenting that all Muslims are terrorists, African Americans are predisposed to criminal activity, or Jews are money-hungry swindlers.

V. **Retaliation is Prohibited**

A. Retaliation Defined

In the harassment context, retaliation occurs when an individual asserts his or her civil rights (a protected activity) and then is penalized for doing so with an adverse action. For example, when an employee reports a complaint of race-based harassment by a supervisor and is then demoted, that demotion may be an act of retaliation. Co-workers can also engage in retaliation through such actions as ostracism, threats, withholding information, or the silent treatment. When a student reports a complaint of sexual harassment by another student and is then intimidated or treated in a hostile or demeaning fashion by other students, that aggression or adverse action may constitute unlawful retaliation. Retaliation discourages others from reporting complaints. The prohibition against retaliation protects an individual’s right to report or assert his or her civil rights.

Retaliation can take many forms, including, but not limited to, bullying, isolating, ostracizing, demoting, providing negative references, teasing, extortion, or harassment.

B. How the College Protects Against Retaliation

An employee who reports harassment or a violation of this policy to WCCCD is protected from retaliation as a matter of law. Additionally, any WCCCD employee, faculty member, or student who reports a violation or suspected violation of applicable state or federal law to the Michigan Department of Civil Rights, Equal Employment Opportunity Commission, or any enforcement authority or administrative agency, whether internal or external to WCCCD, or who appears as a witness in the investigation of a complaint, will not be subject to retaliation or other adverse employment or academic consequence. If an employee believes that he/she has been subject to retaliation, he/she is encouraged to immediately report the occurrence(s) to the Vice Chancellor of Human Resources and Administration. Students are encouraged to report retaliation to the Vice Chancellor of Student Services. The Vice Chancellor of Student Services will immediately bring such reports to the Vice Chancellor of Human Resources and Administration.

VI. Individuals and Conduct Covered

This EEO, Non-Discrimination and Anti-Harassment Policy applies to all employees, faculty members, students, and independent contractors. It prohibits harassment, discrimination, and retaliation whether engaged in by fellow members of the WCCCD community, or by someone not directly connected to WCCCD (*e.g.*, job applicants, outside vendors, consultants, prospective students, or visitors).

The conduct prohibited by this policy is unacceptable in the workplace, classroom, and/or in any College-related setting outside the WCCCD campus, such as during work-related trips, meetings and social events; College-related sporting events, trips, or student group activities. Any employee, faculty member, student, or contractor who violates this policy will be subject to disciplinary action, up to and including termination of employment or contract, or expulsion.

WCCCD's policy prohibiting sexual and other harassment apply equally to e-mails, text/instant messaging, and voicemails. No e-mail, text/instant messages, or voicemails should be created or transmitted if they contain intimidating, demeaning, hostile, or offensive material concerning race, color, national origin, age, marital status, sex, sexual orientation, gender identity, gender expression, disability, religion, height, weight, or veteran status or any other protected characteristic protected by law.

VII. Reporting Acts of Unlawful or Objectionable Conduct

A. Complaint Procedure

An environment where discrimination and harassment are proscribed is the responsibility of every WCCCD community member. WCCCD can take corrective action only when it is aware of the existence of problems or violations. Therefore, WCCCD strongly encourages the reporting of all incidents of discrimination, harassment, or retaliation to one or more of the individuals designated in this policy. Early reporting coupled with WCCCD investigation and remediation are often one of the most effective methods of resolving incidents of discrimination, harassment, and retaliation.

An individual may complain about alleged harassment or retaliation by contacting or reporting the matter to a College supervisory employee, to the Vice Chancellor of Human Resources and Administration; the Title IX Coordinator; a campus President; the Vice Chancellor of Student Services or the Chief of the WCCCD Police Authority. All reports made to the individual's supervisor, campus President, Vice Chancellor of Student Services or Chief of the WCCCD Police Authority must, in turn, be immediately reported to the Vice Chancellor of Human Resources and Administration.

The College will not interfere with an individual's right to file a criminal complaint or a charge of discrimination with the EEOC or Michigan Department of Civil Rights. A criminal investigation will be handled separately from an internal investigation regarding a violation of WCCCD's non-discrimination, anti-harassment and no retaliation policy.

All complaints or reports received by the individuals identified in this policy will be reported immediately to the Vice Chancellor of Human Resources and Administration and the Title IX Coordinator, or to the Chancellor, except in instances where one of these individuals is alleged to have committed the harassment. In that instance, the complaint will be reported to the highest level administrator not involved with or connected to the incident.

If an employee is represented by a union, and the terms of the collective bargaining agreement provide for a different procedure for grieving a sexual or other harassment complaint, the terms of the collective bargaining agreement shall apply but function in coordination with the procedures set forth in this policy. Union employees also have the right to externally file reports or complaints with all pertinent law enforcement agencies, or charges of discrimination with either the EEOC or the Michigan Department of Civil Rights.

B. Particular Obligations of WCCCD Officers, Supervisors, Administrators or Management Staff

Any WCCCD officer, supervisor, administrator or manager (“WCCCD Leadership”) who receives a complaint of sexual or other harassment or retaliation, or who observes or is otherwise made aware of the commission of sexual or other harassment or retaliation at WCCCD (whether on-site or off-site), is obligated to report such harassment to the Vice Chancellor of Human Resources and Title IX Coordinator, or the Chancellor, except in instances where one of these individuals is alleged to have committed the harassment. In that instance, WCCCD Leadership is required to report the complaint to the highest level administrator not involved with or connected to the harassment incident(s).

Failure of these managerial employees to discharge their reporting obligations will result in the imposition of discipline, up to and including, discharge from employment.

C. False Reporting

Harassment is a grave matter that can have devastating, if not tragic, effects on the lives and careers of individuals. Intentionally false accusations – those with no basis in fact – can have a similar impact. Submitting a report that is made in bad faith, or providing falsified or misleading information in any investigation of a complaint, is strictly prohibited. Doing so will subject the individual who has made an intentionally false report to appropriate disciplinary measures, up to and including termination from employment, termination of contract, dismissal, or expulsion, as determined by the appropriate WCCCD officials. Doing so may also subject that individual to civil and/or criminal liability.

D. Special Reporting Considerations for Students

The College encourages its students to report all concerns regarding any form of harassment.

Students may be hesitant to report instances of sexual or gender-based harassment because they fear they may be implicated in the violation of other policies, such as underage alcohol consumption or unlawful drug use or possession. Students may also fear they may be subject to retaliation or reprisal. WCCCD has a legal obligation to protect the well-being of its community, remediating all forms of harassment, and encourages any student experiencing sexual or other harassment to report the misconduct.

VIII. Confidentiality

Inquiries and complaints of harassment or discrimination shall be treated with the maximum degree of confidentiality consistent with WCCCD's overriding obligation to investigate. Complete confidentiality can never be promised as the need to investigate the facts always involves the disclosure and investigation of the allegations as well as the identity of the complainant and the alleged harasser. Confidential information will only be disclosed to others on a "need to know" basis. WCCCD prohibits retaliation and will respond immediately to complaints of retaliation.

IX. Investigation

WCCCD will investigate all complaints of harassment consistent with procedural guidelines developed to ensure their prompt and equitable resolution. Investigations will be conducted promptly, thoroughly and fairly, allowing both the complainant and the accused an opportunity to participate. At no time will the complainant be required to meet with or otherwise be compelled to confront the alleged harasser.

Possible investigation outcomes:

1. Making a determination that the complaint is substantiated, which will result in the imposition of disciplinary action.
2. Making a determination that there is insufficient evidence and/or no reasonable cause to conclude that the policy has been violated. In that case, WCCCD will affirm the continuing obligations of the parties to adhere to the policy's requirements.
3. Referral to the appropriate administrative authority to take corrective disciplinary action, up to and including, termination from employment, termination of contract, dismissal, or expulsion.

The imposition of consequences will depend on the nature, frequency, and severity of the offense as well as any history of past discriminatory or retaliatory conduct. Any WCCCD community member, including third parties working with or visiting the College, who violates this policy will be subject to disciplinary action, up to and including immediate termination, expulsion, or termination of contract.

X. Questions

Questions regarding the meaning or implementation of this policy are encouraged and should be directed to either the Vice Chancellor of Human Resources and Administration or the Vice Chancellor of Student Services.