

# MAINE COMMUNITY COLLEGE SYSTEM

## GENERAL ADMINISTRATION

### Section 202

**SUBJECT: SEXUAL HARASSMENT**

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**PURPOSE: To define and prevent sexual harassment.**

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Sexual harassment, a form of sex discrimination, is a violation of state and federal law and a violation of this policy when engaged in by employees or students. For purposes of this policy, “sex” includes gender as well as sexual orientation, gender identity and gender expression. Any Maine Community College System employee or student who violates this policy or the applicable laws will be subject to disciplinary action.

#### **A. Maine Human Rights Act and Title VII of the Civil Rights Act of 1964**

Under the Maine Human Rights Act and Title VII of the Civil Rights Act of 1964, sexual advances, requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature, including conduct based on sex, constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or educational benefits; or
2. Submission to or rejection of such conduct is used as the basis for an employment or education decision affecting an individual; or
3. Such conduct is so severe or pervasive as to have the purpose or effect of substantially interfering with an individual’s academic or work performance or creating an intimidating, hostile or offensive employment, educational or living environment; and
4. A person of reasonable sensibilities would clearly understand that the conduct was unwelcome, harmful or offensive.

#### **B. Title IX of the Education Amendments Act of 1972**

Title IX of the Education Amendments of 1972 has similar proscriptions against the same types of unwelcome sexual and sex-based conduct prohibited by Title VII and the Maine Human Rights Act, although with different definitions of the prohibited conduct. Title IX also includes sexual assault, stalking, dating violence and domestic violence within the definition of sexual harassment. Jurisdictional requirements must be met for the conduct to be governed by Title IX.

Under Title IX, sexual harassment is unwelcome conduct based on sex that satisfies one of more of the following:

1. An MCCS employee conditions the provision of an MCCS aid, benefit, or service on an individual's participation in unwelcome sexual conduct.
2. Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to MCCS education programs or activities.
3. Sexual assault, domestic violence, dating violence and stalking as defined by federal law and set forth in MCCS Procedure 202.2.

The alleged conduct also must have occurred against a person in the United States participating or attempting to participate in an MCCS education program or activity at a location owned or controlled by MCCS, and MCCS had substantial control over the alleged perpetrator and the context in which the alleged sexual harassment occurred.

### **C. Complaints and Investigations**

Individuals who believe that they are victims of sexual harassment must contact the Title IX Coordinator to file a complaint. It is the policy of the Maine Community College System to provide fair and impartial investigations, consistent with related MCCS procedures and guidance, that will protect the rights of persons filing sexual harassment complaints, the persons complained against, and the Maine Community College System. All conduct within the scope of Title IX is governed by MCCS Procedure 202.2. All other allegations of sexual harassment are governed by MCCS Procedure 202.1. The Title IX Coordinator will determine the applicable procedure after review of the allegations.

Additionally, individuals may also file a sexual harassment complaint with the Maine Human Rights Commission within 300 days of the alleged incident. Further information is available from the Maine Human Rights Commission at State House Station 51, Augusta, Maine 04333, (207) 287-2326, and/or from the United States Department of Education, Office for Civil Rights, 33 Arch Street, Suite 900, Boston, Massachusetts 02110, tel. 617-289-0111, TTY/TTD 617-289-0063, and fax 617-289-0150.

College presidents are directed to take appropriate steps to distribute this policy statement and to inform students and employees of procedures for making complaints.

### **D. Retaliation**

It is a violation of this policy to retaliate against a person who in good faith reports or participates in an investigation of sexual harassment. A person may be found responsible for retaliation even if not found responsible for the underlying alleged sexual harassment.

### **E. False Reports**

It is a violation of this policy to intentionally file a report of any kind with a College official when the person knows that such report, by fabrication or material embellishment, is false.

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REFERENCES: 5 M.R.S.A. §4551– §4632, 5 M.R.S.A. §4601–§4604, 42 U.S.C. §2000e, et seq., 20 U.S.C. §1681, et seq., 34 C.F.R. §106.1 et seq.

DATE ADOPTED: June 24, 2009

DATE(S) AMENDED: November 29, 2012, January 24, 2018, July 8, 2020 (effective August 14, 2020)