

## PERSONNEL POLICIES — SECTION 300

NUMBER: 305

SUBJECT: DISCRIMINATION AND HARASSMENT COMPLAINTS POLICY & PROCEDURE

LAST REVIEW: 6/16/2004, 9/25/2020; 3/3/2022

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### 305.1 – POLICY

1.1 This policy is in accordance with applicable federal, state, and local laws, orders and policies, which include, but are not limited to: Titles VI and VII of the *Civil Rights Act of 1964*; Title IX of the *Educational Amendments of 1972*; Sections 503 and 504 of the *Rehabilitation Act of 1973*; the *Americans with Disabilities Act*; *Vietnam Era Veterans' Readjustment Assistance Act of 1974*; *Executive Order 11246* (as amended); the *State of Utah Anti-Discrimination Act*; and others as applicable.

### 1.2 Discrimination and Harassment

Mountainland Technical College (MTECH) is committed to providing an environment free from harassment and other forms of discrimination based on race, religion, national origin, color, sex, age, disability, military status, pregnancy, sexual orientation, gender identity, or protected activity or class under state or federal law.

1.2.1 Workplace harassment includes:

1. Conduct that is unwelcome, pervasive, demeaning, ridiculing, derisive, or coercive, and results in a hostile, offensive, or intimidating work environment.
2. Conduct that results in a tangible employment action against the harassed employee.

1.2.2 An employee may be subject to discipline for violating workplace policies, even if:

1. The conduct occurs outside of scheduled work time or work location; or
2. The conduct is not sufficiently severe to constitute a violation of law.

This includes classrooms, training labs, off-site clinics, and/or any other location of MTECH-sponsored events and activities.

1.2.3 Once a complaint has been filed, the accused may not communicate with the complainant regarding allegations of harassment.

### **1.3 Equal employment**

All Mountainland Technical College personnel actions shall provide equal employment opportunity for all individuals.

- 1.3.1 Employment actions, including condition or privilege of employment, shall be based on the ability to perform the essential duties, functions, and responsibilities assigned to a particular position.
- 1.3.2 Employment actions may not be based on race, religion, national origin, color, sex, age, disability, pregnancy, sexual orientation, gender identity, or protected activity under the anti-discrimination statutes, political affiliation, military status or affiliation or any other non-job related factor, except as provided under 67-19-15(2)(b)(ii).
- 1.3.3 An employee who alleges unlawful discrimination, harassment, and/or retaliation may:
  1. Submit a report pursuant to section 305.2 Reporting Discrimination, Harassment and/or Retaliation Procedure as shown in this document; and
  2. File a charge with the Utah Labor Commission Anti-Discrimination and Labor Division within 180 days of the alleged harm, or directly with the EEOC within 300 days of the alleged harm.
- 1.3.4 A Mountainland Technical College official may not impede any employee from the timely filing of a discrimination complaint in accordance with state and federal requirements.

### **1.4 Retaliation**

No person may retaliate against any employee who opposes a practice forbidden under this policy, or has filed a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing, or is otherwise engaged in protected activity.

### **305.2 REPORTING DISCRIMINATION, HARASSMENT AND/OR RETALIATION PROCEDURE**

- 2.1 Management shall permit employees who allege workplace discrimination, harassment, and/or retaliation, as outlined in Mountainland Technical College Policy 300.305, to report and engage in a review process free from bias, collusion, intimidation or retaliation. Complainant shall be provided a reasonable amount of work time to prepare for and participate in internal grievance processes.
  - 2.1.1 Employees who feel they are being subjected to workplace discrimination, harassment, and/or retaliation should do the following:
    1. document the occurrence;

2. continue to report to work; and
  3. identify a witness(es), if applicable.
- 2.1.2 An employee may file an oral or written report of workplace discrimination, harassment, and/or retaliation with their immediate supervisor, any other supervisor within their direct chain of command, or the Director of Human Resources at Mountainland Technical College.
1. Reports may be submitted by any employee, witness, volunteer or other individual.
  2. Reports may be made through either oral or written notification and shall be handled in compliance with investigative procedures outlined by the State of Utah Risk Management.
  3. Any supervisor who has knowledge of workplace harassment, retaliation, or both shall take immediate, appropriate action in consultation with the Director of Human Resources and document the action.
- 2.1.3 All reports of workplace discrimination, harassment, and/or retaliation shall be acted upon following receipt of the report.
- 2.1.4 If the College President is the subject of the complaint, the Utah System of Higher Education shall be notified and take action in accordance with USHE policy.
- 2.1.5 If an immediate investigation by Mountainland Technical College management is deemed unwarranted, the complainant shall be notified.

## **2.2 Investigative Procedure**

- 2.2.1 When warranted, investigations shall be conducted based on the recommendations outlined by the State of Utah Risk Management as the standard operating procedure for investigation of employee complaints.
- 2.2.2 Results of Investigation:
1. If the investigation finds the allegations to be substantiated, Mountainland Technical College management shall take appropriate administrative action.
  2. If an investigation reveals evidence of criminal conduct in workplace harassment allegations, the Board of Trustees or College President may refer the matter to the appropriate law enforcement agency.
  3. At the conclusion of the investigation, the appropriate parties shall be notified.
- 2.2.3 Complainant and/or any accused may appeal the conclusions of the investigation to the College President.

## **2.3 Workplace Harassment Records**

- 2.3.1 A separate confidential file (grievance file) of all workplace discrimination, harassment, and/or retaliation reports shall be maintained and stored by Mountainland Technical College, or in the possession of an authorized official.
1. Removal or disposal of these files shall only be done with the approval of the College President in consultation with the Director of Human Resources.
  2. Files shall be retained in accordance with the retention schedule after the active case ends.
  3. All information contained in the grievance file shall be classified as protected under Section 63G-2-305.
  4. Information contained in the workplace discrimination, harassment, and/or retaliation file shall only be released by the College President or MTECH Human Resources when required by law.
- 2.3.2 Supervisors may not keep separate files related to reports of workplace discrimination, harassment, and/or retaliation.
- 2.3.3 Participants in any workplace discrimination, harassment, and/or retaliation proceeding shall treat all information pertaining to the case as confidential.

## **2.4 Training**

Mountainland Technical College shall provide employees training, including additional training for supervisors, on the prevention of workplace harassment.

- 2.4.1 The curriculum shall be approved by the Division of Risk Management.
- 2.4.2 MTECH shall ensure employees complete workplace discrimination, harassment, and retaliation prevention training upon hire and follow up training as appropriate.
- 2.4.3 Training records shall be submitted to a human resources representative, including who provided the training, who attended the training and when they attended it.