

MANUAL OF POLICY

POLICY NUMBER: I-21

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POLICY TITLE: Equal Access/Equal Opportunity

LEGAL AUTHORITY: TITLE VI, VII AND VIII, CIVIL RIGHTS ACT OF 1964; SECTION 485(f) OF THE HIGHER EDUCATION ACT OF 1965; TITLE IX OF THE EDUCATIONAL AMENDMENTS OF 1972; SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED, 29 U.S.C. § 794, AND ITS IMPLEMENTING REGULATION AT 34 C.F.R. Part 104; AMERICANS WITH DISABILITIES ACT OF 1990 (ADA); CIVIL RIGHTS ACT OF 1991; AMERICANS WITH DISABILITIES ACT AMENDMENT ACT OF 2008 (ADAAA); TITLE II OF THE AMERICANS WITH DISABILITIES ACT OF 1990 (TITLE II), AS AMENDED, 42 U.S.C. §§ 12131 *et seq.*, AND ITS IMPLEMENTING REGULATION AT 28 C.F.R. Part 35, GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 (GINA); WHISTLEBLOWER PROTECTION ENHANCEMENT ACT OF 2012; JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT (“CLERY ACT”); VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013; FLORIDA CIVIL RIGHTS ACT, CHAPTER 760, FLORIDA STATUTES; FLORIDA EDUCATIONAL EQUITY ACT, SECTION 1000.05, FLORIDA STATUTES; WHISTLE-BLOWER'S ACT, SECTIONS 112.3187-31895, FLORIDA STATUTES; SECTION 1001.64, FLORIDA STATUTES; AND STATE BOARD OF EDUCATION RULES 6A-19.001 AND 6A-19.010; SECTION 508 OF THE REHABILITATION ACT OF 1973, AS AMENDED 29 U.S.C §794d.; THE FAMILY AND EDUCATIONAL PRIVACY ACT OF 1974; COPYRIGHT ACT OF 1974; COMPUTER CRIME ACT, FLORIDA STATUTES (F.S.) CHAPTER 815; FLORIDA PUBLIC RECORDS F.S. 119; THE US PATRIOT ACT OF 2001; TECHNOLOGY, EDUCATION, AND COPYRIGHT HARMONIZATION ACT OF 2002 (“TEACH ACT”); FLORIDA STATUTE 1001.64.

DATE OF LAST REVIEW: 9/29/2005, 6/19/2007, 7/21/2009, 7/19/2011, and 7/16/2013

DATE OF BOARD ACTION: 9/17/1976, 10/6/1982, 3/26/1985, 1/28/1992, 12/13/1994, 6/19/2007, 7/21/2009, 7/19/2011, 7/16/2013, 3/18/2014, 10/20/2015, 4/19/2016, 7/18/2017 6/21/2022; and 9/20/2022

- A. Miami Dade College is an equal access/equal opportunity institution which does not discriminate on the basis of sex, race, color, marital status, age, religion, national origin, disability, veteran’s status, ethnicity, pregnancy, sexual orientation or genetic information.
- B. Miami Dade College is committed to providing equal employment and equal educational opportunities to its employees, students and applicants for employment or admission in an environment free from harassment or other discriminatory practices based upon sex, race, color, marital status, age, religion, national origin, disability, veteran’s status, ethnicity, pregnancy, sexual orientation or genetic information.
- C. Miami Dade College is an equal access/equal opportunity employer and committed to recruit, employ, grant salaries, and to promote personnel without regard to sex, race, color, marital status, age, religion, national origin, disability, veteran’s status, ethnicity, pregnancy, sexual orientation or genetic information in compliance with all Federal and State legislation and regulations pertaining to non-discrimination.
- D. The employees of the College are expected to teach or work with other employees, and to supervise or be supervised in their work by other employees without regard to sex, race, color, marital status, age, religion, national origin, disability, veteran’s status, ethnicity, pregnancy, sexual orientation or genetic information.

- E. Miami Dade College is committed to provide equal educational opportunities to all students regardless of sex, race, color, marital status, age, religion, national origin, disability, veteran's status, ethnicity, pregnancy, sexual orientation or genetic information. This commitment to equal access/equal opportunity includes the following: recruitment, admission, programs and activities, facilities, counseling and testing, financial assistance, and placement.
- F. The College shall provide reasonable instructional support services as well as substitution or modification of any requirement for admission or graduation for any student with a physical or mental disorder(s) which substantially impairs that person's visual, auditory, manual, speaking or intellectual abilities and bodily functions, or who has a learning disability where documentation can be provided that the student's failure to meet the requirement is related to the disability.
- G. The College shall make reasonable modifications for students and employees with disabilities except where such modifications (1) fundamentally alter the nature of a service, program or activity; (2) the College can demonstrate undue hardship in the provision of the modifications; or (3) the person, even if modifications are made, poses a direct threat to the health or safety of students, staff or others. Please refer to College Procedure 4055: Services Provided to Students with Disabilities, Direct Threat Assessment.
- H. Miami Dade is committed to maintaining a diverse and inclusive learning and work environment in which electronic and information technology (EIT) is accessible to students, employees, applicants and guests with disabilities comparable to the access and use by students, employees, applicants and guests who are not individuals with disabilities.

Based on this commitment, the procurement, development, maintenance, and/or implementation of electronic and information technology will conform to the accessibility standards specified in Section 508 of the Rehabilitation Act of 1973 as Amended and the applicable Web Content Accessibility Guidelines (WCAG) standard, appropriately tailored to the specific needs of the College.

Electronic and Information Technology (EIT) includes information technology and any equipment or interconnected system or subsystem of equipment, that is used in the creation, conversion, or duplication of data or information. The term electronic and information technology includes, but is not limited to, telecommunications products (such as telephones), information kiosks, Automated Teller Machines (ATMs), transaction machines, World Wide Web sites, multimedia, and office equipment such as copiers and fax machines. The term also includes any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. The term information technology includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources

The College's accessibility standards will be designed to evolve as newer technologies are introduced and user needs change. At the same time, the standards maintain a consistent framework for accessibility training and support services. College employees responsible for electronic and information technology produced, maintained, distributed, purchased and/or used by the College community will possess the required technical knowledge related to accessibility standards for individuals with disabilities, (including assistive technology).

College Procedures contain additional guidance for ensuring students, employees, applicants and guests of the College equivalent access to electronic and information technology resources and services.

Compliance. EIT published or controlled by Miami Dade College either internally or to the public will comply with federal, state and local laws, institutional policies, and contractual obligations. All Miami Dade College Department heads as guided by the Miami Dade College EIT Accessibility Coordinator will institute procedures to inform authors, developers, publishers, and procurers about applicable laws, policies and contractual obligations. Miami Dade College reserves the right to remove or suspend distribution of EIT found to be in nonconformance with this policy.

All footers on Miami Dade College -owned or controlled web sites, mobile applications, and any other documents required by law, must contain a link to Miami Dade College's Equal Opportunity Programs/ADA which contains the College's Accessibility Statement.

Priority. The highest priority will be given to Electronic and Information Technology (EIT) that is required for academic participation, disability-related student services, funding or other core materials as defined by Miami Dade College.

I. DEFINITIONS

1. **Discrimination:** Adverse or disparate treatment based on an individual's sex, color, age, disability, national origin, race, religion, marital status, veteran's status, ethnicity, pregnancy, sexual orientation, or genetic information.
2. **Harassment:** Unwelcome conduct, based upon sex, color, age, disability, national origin, race, religion, marital status, veteran's status, ethnicity, pregnancy, sexual orientation or genetic information that impacts either a condition of working or learning (quid pro quo) or creates a hostile environment.
 - a. **Quid Pro Quo Harassment** consists of unwelcome conduct when:
 - 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, employment decisions, or academic advancement, or
 - 2) submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting such individual in matters of employment, or academic advancement.
 - b. **Hostile Environment Harassment** consists of unwelcome conduct when:
 - 1) such conduct has the effect of unreasonably interfering with an individual's work or academic performance, or
 - 2) such conduct has the effect of creating an intimidating, hostile or offensive working or learning environment.

3. Retaliation:

Conduct causing any interference, coercion, restraint or reprisal against a person complaining of discrimination or harassment or participating in the resolution of a complaint of discrimination, harassment or whistleblowing.

4. Sexual Harassment:

All unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature, involving persons of different or of the same gender, directed at an employee or student by another when:

- a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational advancement;
- b. submission to, or rejection of, such conduct is used as a basis for employment and/or educational decisions affecting the individual; or
- c. such conduct has the purpose or effect of unreasonably interfering with the individual's work or educational performance or creating a hostile, intimidating or offensive working or educational environment.
- d. Amorous Relationships:

The College strongly discourages amorous relationships, whether consensual or not, between employees and students, employees who supervise students; between faculty members and students; and between supervisors and subordinates. In recognition of interests in privacy and free association, the College does not prohibit fully consensual amorous relationships. However, members of the College who hold positions of authority should avoid actions that may be perceived as inappropriate or considered sexual harassment.

Even an apparently consensual amorous relationship may lead to sexual harassment or other breaches of professional obligations if one of the individuals in the relationship has a professional responsibility for evaluating the performance of the other, such as in the context of instruction, advisement, or supervision. Due to the difference in authority, there may be the appearance of favoritism and it may be difficult to determine that the relationship is truly consensual. If involved in an amorous relationship with someone over whom he or she has supervisory authority, the individual must remove him or herself from any participation in recommendations or decisions affecting evaluation, employment conditions, instruction, or the academic status of the other person in the relationship, and must inform his or her immediate supervisor. The supervisor informed of the amorous relationship will document such and take appropriate action to comply with the provisions of this section.

Consensual amorous relationships may also lead to sexual harassment or other breaches of professional obligations, even when the individuals involved do not hold positions of authority with respect to one another if one party refuses to respect the right of the other to dissolve the relationship. College employees and students are expected to comply with College policy in these situations.

5. Sexual Assault, Domestic Violence, Dating Violence and Stalking

The College prohibits offenses of Sexual Assault, Domestic Violence, Dating Violence and Stalking on its campuses. These actions are serious violations of the College's Student Code of Conduct, faculty standards and College employee policies and procedures. They are crimes under federal and state law; are punishable by fines and/or imprisonment; and may be subject to civil suit for damages.

- a. **Sexual Assault:** Any sexual act, contact or behavior directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. This includes, but is not limited to rape, fondling, incest and statutory rape. For the purposes of complying with the requirements of this section, any incident meeting this definition is considered a crime for the purpose of Clery Act reporting.
- b. **Domestic Violence:** Violence committed by: a) a current or former spouse or intimate partner of the victim; b) a person with whom the victim shares a child in common; c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; d) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or e) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. For the purposes of complying with the requirements of this section, any incident meeting this definition is considered a crime for the purpose of Clery Act reporting.
- c. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined by the victim with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purpose of this definition it: a) includes, but is not limited to, sexual or physical abuse or the threat of such abuse; and b) does not include acts covered under the definition of domestic violence. For the purposes of complying with the requirements of this section, any incident meeting this definition is considered a crime for the purpose of Clery Act reporting.
- d. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress. For the purpose of this definition, "course of conduct" means acts in which the stalker directly, indirectly or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. "Reasonable person" means a reasonable person in the victim's circumstances. For the purposes of complying with the requirements of this section, any incident meeting this definition is considered a crime for the purpose of Clery Act reporting.

6. Electronic and Information Technology Accessibility

- a. **Accessible:** An accessible information technology system is one that may, be operated in a variety of ways and does not rely on a single sense or ability of the user. Individuals with disabilities are able to independently acquire the same information, engage in the same interactions, and enjoy the same services within the same timeframe as individuals without disabilities, with substantially equivalent ease of use. An accessible system is useable for individuals such as those with blindness or low vision, those who are deaf or hard of hearing, those with mobility impairments and those with cognitive disabilities. Some individuals with disabilities may need accessibility-related software or peripheral devices in order to use systems that comply with Section 508.
- b. **Accessibility Standards:** These internal standards build on and clarify the use of Section 508 and WCAG standards as it relates to the College's programs and services.
- c. **Assistive Technology:** Any item, piece of equipment, or system, whether acquired commercially, modified, or customized, that is commonly used to increase, maintain, or improve functional capabilities of individuals with disabilities; and provides equivalent access to electronic and information technology resources for members of the MDC community, as well as visitors to the College. Such technology provides accessible text to students, faculty, and staff with print-related disabilities; accessible media, closed captioning and audio descriptions; and other resources for accessible technology.
- d. **Training.** This policy will be communicated to all Miami Dade College staff including but not limited to new and existing developers, authors, QA analysts, business systems analysts, application development, risk management, change management and project management teams. The policy will also be communicated to and be binding upon external vendors and contractors who develop EIT for Miami Dade College.
- e. **Web Content Accessibility Guidelines (WCAG):** The World Wide Web Consortium (W3C) guidelines for creating accessible Web content.

7. Whistleblower:

A College employee, or an employee of an independent contractor or subcontractor for the College, who reasonably believes there is evidence of gross mismanagement, a gross waste, an abuse of authority, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation by an employee or agent of the College or its independent contractor or subcontractor. Such violations may include, but not be limited to, a federal or state contract or grant (including the competition for or negotiation of a contract) with the College.

- J. The College prohibits retaliation against any employee, student, applicant or other participant in the College's programs or activities who files a complaint of discrimination, harassment or whistleblowing.

K. OTHER PROVISIONS:

1. College Policy I-21: Equal Access/Equal Opportunity is available at www.mdc.edu including the MDC Students Rights and Responsibilities Handbook at <http://www.mdc.edu/current/> and www.mdc.edu/hr/EmployeeHandbook/Default.asp.
2. Miami Dade College is an equal access/equal opportunity institution which does not discriminate on the basis of sex, race, color, marital status, age, religion, national origin, disability, veteran's status, ethnicity, pregnancy, sexual orientation or genetic information. Additional information may be obtained by contacting the College's Equity Officer: Dr. Joy C. Ruff, Director, Office of Equal Opportunity Programs/ADA Coordinator/Title IX Coordinator, at (305) 237-2577 (Voice) or 711 (Relay Service). 11011 SW 104 St., Room 1102-2; Miami, FL 33176. jruff@mdc.edu
3. Any Miami Dade College employee, student, applicant for admission or employment or other participant in the College's programs or activities who believes he or she has been unlawfully harassed or discriminated against on the basis of sex, color, age, disability, national origin, race, religion, marital status, veteran's status, ethnicity, pregnancy, sexual orientation, or genetic information may seek resolution to his/her complaint through College Procedure 1665: Discrimination and Harassment Grievance Process. College Procedure 1665 is available on the College website at www.mdc.edu including the MDC Students Rights and Responsibilities Handbook at <http://www.mdc.edu/current/>.
4. Employees who wish to file complaints external to the College may contact the Equal Employment Opportunity Commission (EEOC) at www.eeoc.gov.
5. Students who wish to file complaints external to the College may contact the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr/complaintintro.html.
6. Protection: Sexual Assault, Dating Violence, Domestic Violence, and Stalking College Policy I-20: Sexual Assault, Dating Violence, Domestic Violence, and Stalking, contains detailed provisions related to reporting, assistance, prevention and awareness of Sexual Assault, Dating Violence, Domestic Violence, and Stalking violations.

<https://www.mdc.edu/policy/Chapter1/01-I-20.pdf>

- a. The College will respond promptly, fairly, impartially and decisively to all reports of Sexual Assault, Domestic Violence, Dating Violence and Stalking on Campus.

The College urges victims to report all major life threatening emergencies immediately to 911 (local law enforcement) and to the appropriate Miami Dade College Campus Public Safety Department by telephone, in person at a Campus Public Safety Office, to any uniformed Miami Dade College Public Safety Officer, or through any reporting of the emergency telephones located throughout the Campuses and in all elevators.

Campus Public Safety Offices:

Carrie Meek Entrepreneurial Center	(305) 237-1923 or (305) 237-1910	Hialeah Campus	(305) 237-8701
Homestead Campus	(305) 237-5100	Padron Campus	(305) 237-6100
Kendall Campus	(305) 237-2100	Medical Campus	(305) 237-4100
North Campus	(305) 237-1100	West Campus	(305) 237-8100
Wolfson Campus	(305) 237-3100		

- b. In addition to the options indicated above:

Students who are victims of Sexual Assault, Domestic Violence, Dating Violence, or Stalking may also report incidents to the Offices of the Dean of Students or the Dean of Academic Affairs for their Campus or the Office of Equal Opportunity Programs/ADA Coordinator/Title IX Coordinator.

Employees who are victims of Sexual Assault, Domestic Violence, Dating Violence, or Stalking may also report incidents to the Office of Equal Opportunity Programs/ADA Coordinator/Title IX Coordinator or the Office of Public Safety for their Campus.

Witnesses or bystanders to Sexual Assault, Domestic Violence, Dating Violence, or Stalking are urged to report incidents to the Office of Public Safety as provided above or the Office of Equal Opportunity Programs/ADA Coordinator/Title IX Coordinator. The contact telephone number for these offices may also be found at <http://www.mdc.edu/main/safety/>. The College will provide procedures for safe and positive options for witness/bystander intervention in order to prevent or intervene when there is a risk of sexual violence or Stalking against another individual.

7. Electronic and Information Technology Accessibility

Contact. Miami Dade College's Office of Equal Opportunity Programs/ADA Coordinator/Title IX, serves as the contact point for EIT accessibility issues. Accessibility issues and alternative format requests shall be forwarded to the Miami Dade College Office of Equal Opportunity Programs/ADA/Title IX.

Exceptions. Where conformance with this policy is not possible, exceptions to this policy may be necessary. Requests for exceptions must be documented and submitted to the Miami Dade College EIT Accessibility Coordinator. Exceptions may be granted under the following conditions:

- a. "Undue Burden" – Conformance with this policy may be waived if it would impose an Undue Burden on Miami Dade College. "Undue Burden" is defined by Section 508 as “. . . [S]ignificant difficulty or expense. In determining whether an action would result in an undue burden, an agency shall consider all agency resources available to the program or component for which the product is being developed, procured, maintained, or used.“
- b. "Fundamental alteration" – When making a portion of the EIT compliant would require a fundamental system change which would materially impact its use by other constituents, conformance with this policy may be waived.

- c. "User generated content" – Content that is created by users of the system and is not readily accessible to the public may be exempted from conformance with this policy. This exception only applies to the content itself, not the controls provided in association with the content, such as “Like” or “Follow” buttons, next page links, logins which may be required to view content, etc.
 - d. "Linked sites and resources" – Sites, resources, or systems that are linked to from any Miami Dade College published or controlled website but are hosted outside of the Miami Dade College’s operations may be exempted from conformance with this policy, unless there is a contract in place with a vendor who is being paid to provide access to the vendor’s site, resource or system.
 - e. "External Digital Content" – Digital Content about or relating to Miami Dade College that is hosted by third parties may be exempted from conformance with this policy, unless there is a contract in place with a vendor who is being paid to provide such Digital Content.
 - f. “Short Term Digital Content” – Digital Content that is hosted for less than three weeks may be exempted from conformance with this Policy.
 - g. “Orphaned Digital Content” – Digital Content that is orphaned or available but not linked directly from any web site published or controlled by Miami Dade College may be exempted from conformance with this policy.
 - h. “Back Office” -- Products located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment which is not remotely accessible may be entitled to an exemption from conformance with this Policy.
8. Whistleblower Protection:

In accordance with applicable federal or state law, the College and its independent contractors and subcontractors (Contractors) shall not retaliate against an employee of the College or Contractors for reporting to the appropriate government agencies violations of law, rule, or regulation on the part of the College, its agents or employees or Contractors that create substantial and specific danger to the public’s health, safety, or welfare. Furthermore, the College or Contractors shall not retaliate against their employees who disclose information to an appropriate government agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of the College, its agents or employees, or Contractors. The College and Contractors shall inform their employees that they may file a complaint with the appropriate government agency, which may include, but not be limited to, the U.S. Inspector General, Florida Office of Chief Inspector General, the Florida Commission on Human Relations or the Whistleblower’s Hotline number at 1-800-543-5353 and shall report such violations to the OEO/ADA, who for this purpose has been designated as the “agency inspector general.”

The employee may not be discharged, demoted, or otherwise discriminated against as a reprisal for “whistleblowing”. These protections cannot be waived by any agreement, policy, form, or condition of employment.

9. Additional information regarding these provisions may be obtained by contacting the Director, Office of Equal Opportunity Programs/ADA Coordinator and Title IX Coordinator at 305-237-2577.

<i>Michael Bilker</i> 9/20/2022
CHAIRMAN DATE