Contemporary Equal Employment and Education Opportunity Compliance

There are a variety of federal, state, and local laws, regulations and Executive Orders that prohibit discrimination on the basis of race, sex, color, religion, age, national origin, disability, veteran status, genetic information and other protected characteristics. Based upon the regulation, law and order, public and private organizations are required to comply with numerous procedural requirements relating to these mandates, depending on which law is involved.

Within the context of EEO, affirmative action and diversity, the agencies for which the College is required to comply include the Equal Employment Opportunity Commission, US Department of Labor, State Fair Employment Practice Agency, Maryland Higher Education Commission, Montgomery County Human Relations Commission, Department of Education and Department of Justice. As such, there are approximately 30 federal, state and county laws, regulations and Executive Orders addressing education and employment discrimination for which the College has crafted policies/procedures and monitor compliance (see attached). The main sources of EEO law are statutes enacted by the United States Congress and state legislatures. The basic principles of equal employment law have been developed through more than four decades of legislation, government agency regulation, and court decisions.1

In accordance with the Board of Trustees’ policy, Montgomery College is committed to equal employment and education opportunity that assures access, equity, and diversity. Further, the College is committed to providing an environment in which all persons are provided the opportunity for employment, participation in academic programs, and/or other college activities free from discrimination, any form of harassment as prohibited by federal regulations and state law, and sexual assault.

The College’s equal employment/education opportunity (EEO), non-discrimination and sexual harassment policies prohibit discrimination against any student, employee, or applicant for employment who is a qualified individual with a disability, a covered veteran and on the basis of age, sex, race, color, religion, national origin, marital status, sexual orientation, or because of an individual’s citizenship status. As such, conduct that constitutes harassment and/or sexual assault violates College policy and will not be tolerated. Moreover, violations of the Equal Employment and Non-discrimination and Sexual Harassment policies on the part of any employee of the College, any student enrolled at the College, or any participant in any College program will result in appropriate disciplinary action, including discharge or expulsion.

The College has established eight equal employment and equal education opportunity related compliance policies and four associated procedures. Alleged violations of these policies, on the part of any employee of the College, any student enrolled at the College, or a participant in any College program, should be reported to the Chief Equity and Diversity Officer. A summary of the federal, State and County laws, regulations and Executive Orders addressing equal employment and education opportunity compliance and non-discrimination are provided below.

Equal Employment and Education Opportunity and Non-discrimination Laws, Regulations and Executive Orders that require Montgomery College Compliance

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<tr>
<td>Current non-discrimination laws and regulations the College is accountable for ensuring compliance:</td>
<td>Laws and Regulations Addressing Education and Employment Discrimination (I have included the specific external enforcement and compliance agency):</td>
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<td>Age discrimination involves treating someone (an applicant or employee) less favorably because of age. The Age Discrimination in Employment Act (ADEA) only forbids age discrimination against people who are age 40 or older. It does not protect workers under the age of 40, although some states do have laws that protect younger workers from age discrimination. Disability discrimination occurs when an employer or other entity covered by the Americans with Disabilities Act, as amended, or the Rehabilitation Act, as amended, treats a qualified individual with a disability who is an employee or applicant unfavorably because of a disability. Disability discrimination also occurs when a covered employer or other entity treats an applicant or employee less favorably because of a history of a disability (such as cancer that is controlled or in remission) or because of a belief in someone’s ability to perform their job-related skills and performance.</td>
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<td>There are a variety of federal, state, and local laws, regulations and Executive Orders that prohibit discrimination on the basis of race, sex, color, religion, age, national origin, disability, veteran status, genetic information and other protected characteristics. Based upon the regulation, law and order, public and private organizations are required to comply with numerous procedural requirements relating to these mandates.</td>
<td>1. Title VI — of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq.; 34 CFR 100.3(b)(2) (US Dept of Justice and Dept of Education)</td>
<td>Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives federal financial assistance. Language for limited English proficiency (LEP) individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities.</td>
<td>1. Punitive Damages up to $300K</td>
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<td>2. Title VII of the Civil Rights Act of 1964, as amended (EEOC)</td>
<td>“The EEO statutes have one unifying theme: people should not be treated differently (i.e., adversely) because of personal characteristics unrelated to their ability to do a job, such as their race, sex, age, religion, or disability. With few exceptions, individuals must be hired, promoted, disciplined, or fired because of their job-related skills and performance.” (Equal Employment Advisory Council, 2010, p. 1-2)</td>
<td>2. Compensatory Damages</td>
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Equal employment law have been developed through more than four decades of legislation, government agency regulation, and court decisions.²

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<td>9</td>
<td>Older Workers Benefit Protection Act (OWBPA) (EEOC)</td>
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<td>10</td>
<td>Title I of the Americans With Disabilities Act, 29 C.F.R. Part 1630 (EEOC)</td>
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<td>11</td>
<td>The Rehabilitation Act of 1973 §§ 503 and 504 (Debt of Labor)</td>
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<td>13</td>
<td>Certification for Serious Injury or Illness of Covered Service member for Military Family Leave (Debt of Labor)</td>
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<td>14</td>
<td>Discrimination because of Religion, 29 C.F.R. Part 1605 (EEOC)</td>
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<td>15</td>
<td>Discrimination Because of Sex, 29 C.F.R. § 1604.11 (EEOC)</td>
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<td>16</td>
<td>Vicarious Employer Liability for Unlawful Harassment by Supervisors (EEOC)</td>
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<td>17</td>
<td>Sexual Harassment (EEOC)</td>
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<td>18</td>
<td>Employer Liability under Title VII for Sexual Harassment (EEOC)</td>
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<td>19</td>
<td>Vietnam Era Veterans' Readjustment Assistance Act of 1974 (Debt of Labor)</td>
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<td>20</td>
<td>Veterans' Employment Opportunity Act of 1998 (Debt of Labor)</td>
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<td>Jobs for Veterans Act 2002 (Debt of Labor)</td>
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<td>22</td>
<td>Uniformed Services Employment and Reemployment Rights Act of 1994 (Debt of Labor)</td>
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<td>23</td>
<td>Immigration Reform and Control Act of 1986 (US Department of Justice)</td>
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Title VII of the 1964 Civil Rights Act, the Age Discrimination in Employment Act, the Equal Pay Act, Title I of the Americans with Disabilities Act, and Title II of the Genetic Information Nondiscrimination Act of 2008 are enforced by the Equal Employment Opportunity Commission (EEOC).

The EEOC investigates discrimination charges filed by or on behalf of individuals or by the EEOC itself. In some situations, the EEOC also can investigate without a charge having been filed. (Equal Employment Advisory Council, 2010, p. 20-21)

Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), which prohibits genetic information discrimination in employment, took effect on November 21, 2009. Under Title II of GINA, it is illegal to discriminate against employees or applicants because of genetic information. Title II of GINA prohibits the use of genetic information in making employment decisions, restricts employers and other entities covered by Title II (employment agencies, labor organizations and joint labor-management training and apprenticeship programs - referred to as "covered entities") from requesting, requiring or purchasing genetic information, and strictly limits the disclosure of genetic information.

National origin discrimination involves treating people (applicants or employees) unfavorably because there is a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if there is no such impairment).

24. Title IX (US Department of Education)
26. Maryland House Bill 905 and Senate Bill 438 Education Article, Annotated code of Maryland, §§1-406 [Requires MD colleges and university to develop a diversity plan] (Enforced by MHEC)
27. Annotated Code of Maryland, Article 49B
28. Maryland Criminal Code, §§3-307 & 3-308
29. Montgomery County Code, Chapter 27 §27-1

**Laws and Regulations Addressing Affirmative Action:**
Required to develop an annual affirmative action plan/program for “Women and Minorities,” Individuals with Disabilities” and “Covered Veterans”


Penalties and Fines, suspension of Federal Financial Aid, and other federal contracts

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because the person is married to (or associated with) a person of a certain race or color or because of a person’s connection with a race-based organization or group, or an organization or group that is generally associated with people of a certain color. Discrimination can occur when the victim and the person who inflicted the discrimination are the same race or color.

Religious discrimination involves treating a person (an applicant or employee) unfavorably because of religious beliefs. The law protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical or moral beliefs. Religious discrimination can also involve treating someone differently because that person is married to (or associated with) an individual of a particular religion or because of a connection with a religious organization or group.

Retaliation is prohibited in all of the laws that enforce the prohibition of discrimination. The laws make it illegal to fire, demote, harass, or
otherwise “retaliate” against people (applicants or employees) because of a charge of discrimination, because of a complaint to their employer or other covered entity about discrimination on the job, or because of participation in an employment discrimination proceeding (such as an investigation or lawsuit). For example, it is illegal for an employer to refuse to promote an employee because of a filed charge of discrimination with the EEOC, even if EEOC later determined no discrimination occurred.

**Retaliation & Work Situations**

The law forbids retaliation when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

**Sex discrimination** involves treating someone (an applicant or employee) unfavorably because of that person’s sex. Sex discrimination also can involve treating someone less favorably because of a connection with an organization or group that is generally associated with people of a certain sex.
Sexual Harassment makes it unlawful to harass a person (an applicant or employee) because of that person’s sex. Harassment can include “sexual harassment” or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person’s sex. For example, it is illegal to harass a woman by making offensive comments about women in general. Both the victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

Title IX of the Education Amendments of 1972 protects people from discrimination based on sex in education programs or activities which receive Federal financial assistance. Title IX states that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Protected Classes: Groups
identified in Executive Order 11246 (minorities, women, disabled persons and Vietnam Era Veterans) that are specifically protected against employment discrimination.

**New EEOC Race Identity CODES & Definitions**

- **Hispanic or Latino** — a person of Cuban, Mexican, Puerto Rican, South or Central American or other Spanish culture or origin, regardless of race.

- **Caucasian (Not Hispanic or Latino)** — a person having origins in any of the original peoples of Europe, the Middle East or North Africa.

- **Black or African American (Not Hispanic or Latino)** — a person having origins in any of the black racial groups of Africa.

- **Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino)** — a person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.

- **Asian (Not Hispanic or Latino)** — a person having origins in any of the original peoples of the Far East, Southeast Asia,
Current non-discrimination practices in place for compliance responses

i. Are they written down?
   Yes, and located in the P&P

ii. Formally or informally tracked?
   Formally tracked.

iii. How do you know they are complete and on time?
   The annual compliance activities are calendared and/or mandated by state or federal compliance agency.

Current OED Practices:

1. Bi-annual issuance of Montgomery College Equal Employment and Education Compliance Policy and Procedure Notification to Administrators, Faculty and Staff

In accordance with the Board of Trustees’ policy, Montgomery College is committed to equal employment and education opportunity that assures access, equity, and diversity. Further, the College is committed to providing an environment in which all persons are provided the opportunity for employment, participation in academic programs, and/or other college activities free from discrimination, any form of harassment as prohibited by federal regulations and state law, and sexual assault.

The College equal employment/education, non-discrimination and sexual harassment policies prohibit discrimination against any student, employee, or applicant for employment who is a qualified individual with a disability, a covered veteran and on the basis of age, sex, race, color,
2. Annually review and, as appropriate, revise policies and procedures
3. All policies and procedures posted on OED webpage
4. Inside MC Notifications and Updates
5. Prepare Annual AAP(s)
6. Prepare Annual Equity in Athletics Disclosure Act Report
7. Facilitate Search and Selection Overview
8. Ensure (a) that the Search and Selection committees are formally provided with the College’s commitment to achieving employment diversity and (b) establish search and selection committees with at least one-third of its members representative of the College’s diversity
9. Review and, as appropriate, approve all search and selection documents prior to the College extending an employment offer.
10. Conduct discrimination complaint investigations
11. Conduct EEO training
12. Sponsor and co-sponsor cultural diversity programs at the College and with community partners
13. Inform top management of any problems that arise in their respective areas so that immediate and appropriate steps can be taken to resolve any issues.

religion, national origin, marital status, sexual orientation, or because of an individual’s citizenship status. As such, conduct that constitutes harassment and/or sexual assault violates College policy and will not be tolerated. Moreover, violations of the Equal Employment and Non-discrimination and Sexual Harassment policies on the part of any employee of the College, any student enrolled at the College, or any participant in any College program will result in appropriate disciplinary action, including discharge or expulsion.

The College equal employment and equal education opportunity policies are identified below. Alleged violations of these policies, on the part of any employee of the College, any student enrolled at the College, or a participant in any College program should be reported to the Chief Equity and Diversity Officer.

- Hate Violence (31002)
- Hate Violence (31002CP)
- Equal Employment Opportunity and Non-discrimination Policy (31006)
- Equal Employment Opportunity, Non-discrimination and Sexual Harassment Complaint Procedure (31006CP)
- Affirmative Action Policy (31007)
- Sexual Harassment Policy (31008) Sexual Assault Policy (31010)
- Consensual Relationships Policy (31106)
- Consensual Relationships Procedure (31106CP)
- Employment of Individuals with Disabilities Policy (32106)
- Employment of Individuals with Disabilities Procedure (32106CP)
14. Keep management abreast of developments in the affirmative action area. The primary vehicle for communication with management will be periodic affirmative action reports and briefings from the Chief Equity and Diversity Officer.

15. Discuss the progress of the College’s Affirmative Action Plan at supervisors’ meetings, and communicate relevant information to employees during regular departmental meetings.

16. Establish occasions to periodically report to the President and the Board of Trustees of the College and other appropriate top management on the effectiveness of the affirmative action and diversity programs and submit recommendations for improvement.

Equal Education Opportunity and Non-Discrimination Policy (41002).

| College departments that OED shares responsibility for responding to compliance requirements | Offices of the President; General Counsel; Human Resources, Development and Engagement; Institutional Research; Board of Trustees; Senior Vice Presidents; Vice Presidents/Provosts; DSS; IT and other units. | Both the offices of Equity and Diversity and Human Resources, Development and Engagement are directly responsible for formal and informal complaints, grievances, and appeals related to internal College procedures such as the staff classification system, probationary and regular status, changes in employee status, disciplinary actions and suspensions, discharges of administrative, associate & support staff, non-renewal of administrative |
appointments, resignations and retirements “not in good standing,” the personnel grievance process, compensation plans, leave programs, and performance evaluations and employee development. Such complaints may involve, but are not limited to, equal opportunity, non-discrimination, sexual harassment and sexual assault issues.

When an EEO complaint has been addressed according to formal procedures and timelines, employees may appeal administrative decisions made by the Office of Equity and Diversity to one of the three Senior Vice Presidents. Determinations made by a Senior Vice President are final.

The offices of Human Resources and General Counsel are typically informed of concerns, allegations, and complaints handled by the Office of Equity and Diversity. Further, while external disputes and law suits are handled by the Office of General Counsel, the Office of Equity and Diversity consults with the office to seek advice or provide factual information or support when legal circumstances require their involvement.

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<th>OED references/resources</th>
<th>OED Web site is an online resource that provides direct access to the Board of Trustees' Equal Employment and Education Compliance policies</th>
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and procedures articulate Montgomery College’s commitment to providing an environment in which all persons are provided the opportunity for employment, participation in academic programs, and/or other college activities free from discrimination, any form of harassment as prohibited by federal regulations and state law, and sexual assault.

The website also provides information about the office’s current and upcoming diversity events, initiatives and activities; easy access to the links of federal and state EEO compliance agencies, regulations and guidelines; and links to an array of diversity related resources.
