MEMORANDUM

December 5, 2008

TO: All MWCC Employees

FROM: Diane M. Ruksnaitis, Associate Vice President
       Human Resources/Affirmative Action Officer

SUBJECT: ANNUAL DISSEMINATION-SEXUAL HARASSMENT POLICY

This memo and the attached policy, shall serve as your notification of MWCC’s Sexual Harassment Policy. Since this policy has implication for all employees, it is expected that you become familiar with the contents for situations where procedures will need to be followed. *Please sign and return this memo to the Department of Human Resources and Affirmative Action where it will be kept on file.

Supervisors: Please be sure to share this policy and memo with those employees who do not have access to e-mail. Hard copies of all the policies are available in the Department of Human Resources and Affirmative Action, room 112.

If you have questions regarding this memo please contact me at extension 160.

___________________________  ____________________________
Employee Signature         Today’s Date

DMR/jml

c: Personnel file
POLICY STATEMENT ON

SEXYAL HARASSMENT

INTRODUCTION

It is the goal of Mount Wachusett Community College to promote a workplace and learning environment that is free of sexual harassment. Sexual harassment of a student, an employee, or any other person in the college is unacceptable, impermissible, intolerable, and punishable under law. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace/academic environment free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees/students.

In Massachusetts, the legal definition for sexual harassment is this: “sexual harassment” means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- a) Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or a basis for employment decisions; or,
- b) Such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual’s work/academic performance by creating an intimidating, hostile, humiliating or sexually offensive environment.

Under these definitions, direct or implied requests by a supervisor or instructor for sexual favors in exchange for actual or promised classroom/job benefits such as favorable grades/reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a workplace/academic environment that is hostile, offensive, intimidating, or humiliating to male or female worker/students may also constitute sexual harassment.

Below are two types of sexual harassment.

LEGAL DEFINITION

Quid pro quo harassment is defined in Chapter 151 B as: sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when... submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions...

Quid pro quo harassment occurs when an employee/instructor with authority or control over the terms and conditions of another employee’s work or a student’s academic
performance offers her a benefit or advantage in exchange for sexual favors or gratification. Conversely, if a student/employee is denied an academic/work benefit or advantage due to her refusal to respond to, or rejection of, requests for sexual favors or gratification, he [she] is subjected to quid pro quo harassment.

The second form of sexual harassment is hostile classroom/work environment harassment, of which is defined in Chapter 151B as: sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when... such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual’s classroom/work performance by creating an intimidating, hostile, humiliating or sexually offensive academic/work environment.

The law does not proscribe all conduct of a sexual nature. Only unsolicited and unwelcome conduct may create a hostile work environment.

Under these definitions, direct or implied requests by an instructor/supervisor for sexual favors in exchange for actual or promised academic/job benefits such as favorable grades, reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment. The legal definition of sexual harassment is broad and in addition to the examples previously stated, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place/academic environment that is hostile, offensive, intimidating, or humiliating to male or female workers, may also constitute sexual harassment. While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances - whether they involve physical touching or not;
- Dissemination of sexually explicit voice mail, e-mail, graphics, downloaded material or websites;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one’s sex life, comments on an individual’s body, comments about an individual’s sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one’s sexual experiences; and,
- Discussion of one’s sexual activities.

Such behavior is expressly forbidden by federal and state regulations and action by the federal government has established that such behaviors are actionable under the provisions of Title VII of the 1964 Civil Rights Act and the Civil Rights Act of 1991, the provisions of Title IX of the 1972 Educational Amendments and under Massachusetts General Law, Chapter 151B, Sections 3A, 4(1), and 16A.

COMPLAINT PROCEDURES

In keeping with these regulations, a concerted effort will be made to protect employees, students, and others from sexual harassment as defined. If an incidence should arise, retaliation is unlawful against the victim or those who cooperate in the investigation of a sexual harassment complaint. The final authority and ultimate responsibility for the prevention of sexual harassment will rest with the President. The President will take all reasonable measures to prevent sexual harassment and will act positively to investigate alleged harassment and to effect remedy when an allegation is determined to be valid. However, the Affirmative Action Officer will have the responsibility for the overall
development, administration, and monitoring of all programs, policies, procedures, and regulations related to sexual harassment. Complaints about sexual harassment should be communicated orally or registered formally with the Affirmative Action Officer, extension 160.

The College’s policies and complaint procedures on sexual harassment are well-publicized to students and employees; these policies and procedures are detailed in student handbooks and employee pamphlets. All employees will be given a copy of the policy statement on sexual harassment on or before November 15th, on an annual basis. New employees will receive a copy at the onset of their employment. In addition to formal procedures, the College shall insure that appropriate opportunities are available to students and employees to obtain counseling concerning their rights under the law and effective means of informally resolving grievances.

When employees or students feel their equal opportunity rights have been breached, the grievance process is a mechanism for resolution. When a complaint is filed, it will be promptly investigated in a fair and expeditious manner to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate. A neutral investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation will include a private interview with the person filing the complaint, with any witnesses, and with the person alleged to have committed the sexual harassment. When the investigation is completed to the extent appropriate, the person filing the complaint and the person alleged to have committed the conduct will be informed of the results of the investigation. If it is determined that inappropriate conduct occurred, prompt action to eliminate the offending conduct will occur, and where appropriate, disciplinary action will be imposed.

The informal process will encourage the affected person to discuss the concern or breach with any involved College official who may be helpful in resolving the matter. The College official may be the Affirmative Action Officer and/or her designee, any Division Vice Presidents, Assistant/Associate Deans, a counselor, a supervisor, or any other official who might help the affected person with an informal resolution. The purpose of the informal grievance process is to allow for misunderstandings to be aired and resolved and to provide an opportunity for the aggrieved person and the alleged perpetrator to attempt to resolve the concern prior to the formal grievance process.

Any employee or student, who believes that the College’s Affirmative Action/Equal Employment Opportunity Commission (AA/EEOC) Policy has been breached in its application to him/her, may institute a formal grievance. The formal grievance procedure for employees contains four steps, all of which are listed in the Commonwealth of Massachusetts Community College Affirmative Action Plan. The Affirmative Action Plan is available in the office of the Affirmative Action Officer, ext. 160. The grievance procedure for students is stated in the Student Handbook and is available in complete written form in the office of the Vice President of Student Services and Enrollment Management, extension 164. These persons are also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

POSSIBLE GRIEVANCE PENALTIES

If it is determined that inappropriate conduct has been committed by an employee or student, appropriate action will be taken. Such action may range from counseling to termination from employment or student status, and may include such other forms of disciplinary action as deemed appropriate under the circumstances. In addition to the College’s grievance process, if an employee or student has been subjected to sexual harassment, a formal complaint may be filed with either or both of the government agencies listed at the end of this notice. Using the College’s grievance process does not
prohibit an employee or student from filing a complaint with either or both of the
government agencies set forth below. Each of the agencies has a deadline for filing
claims: EEOC & MCAD – 300 days.

1. **The United States Equal Employment Opportunity Commission (EEOC)**
   
   *John F. Kennedy Federal Building*
   
   *Room 475*
   
   *Government Center*
   
   *Boston, MA 02203*
   
   *(617) 565-3200 or (800) 669-4000*

2. **The Massachusetts Commission Against Discrimination (MCAD)**

   *Boston Office:*
   
   *One Ashburton Place-Room 601*
   
   *Boston, MA 02108*
   
   *(617) 994-6000*

   *Springfield Office:*
   
   *436 Dwight Street*
   
   *Springfield, MA 01103*
   
   *(413) 739-2145*

The Affirmative Action Officer, in conjunction with the Multicultural Awareness
Committee, will pursue educational efforts essential to the establishment of a campus that
is as free as possible from sexual harassment. Continued efforts will be made to:

1. ensure that all victims and potential victims are aware of their rights;
2. notify individuals of conduct that is prescribed;
3. inform administrators about the proper way to address complaints and/or
   violations;
4. provide information relative to the issues this policy addresses;
5. distribute literature on an annual basis;
6. provide classroom presentations to the student population;
7. provide training sessions for new hires within one year after the onset of their
   employment and for other employees; and on an as needed basis; and
8. conduct annual training for supervisory and managerial employees.