



**The Commonwealth of Massachusetts**  
**Board of Higher Education**  
**Massachusetts Community Colleges**

**POLICY ON AFFIRMATIVE ACTION,  
EQUAL OPPORTUNITY & DIVERSITY**

- Berkshire Community College
- Bristol Community College
- Bunker Hill Community College
- Cape Cod Community College
- Greenfield Community College
- Holyoke Community College
- Massachusetts Bay Community College
- Massasoit Community College
- Middlesex Community College
- Mount Wachusett Community College
- North Shore Community College
- Northern Essex Community College
- Quinsigamond Community College
- Roxbury Community College
- Springfield Technical Community College

**Effective Date: August 1, 2024**

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**CERTIFICATE OF APPROVAL  
BOARD OF HIGHER EDUCATION  
FOR MASSACHUSETTS COMMUNITY COLLEGES  
POLICY ON AFFIRMATIVE ACTION, EQUAL OPPORTUNITY & DIVERSITY**

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The Commonwealth of Massachusetts' Community Colleges' Policy on Affirmative Action, Equal Opportunity & Diversity has been approved for implementation by the Board of Higher Education, effective August 1, 2024.

This Policy shall replace the previous Policy, which was approved by the Board of Higher Education and implemented on August 14, 2020, as amended in August 2021. This Policy shall remain in full force and effect until a successor Policy is approved and implemented. The Community Colleges will continually review this Policy and the Complaint Procedure to ensure compliance with the requirements of federal and state laws and regulations.

Noe Ortega  
Commissioner  
Department of Higher Education

## **A. OVERALL POLICY STATEMENT**

The Community Colleges have carefully developed and outlined the major elements of an effective Affirmative Action, Equal Opportunity & Diversity Policy with the understanding that a successful policy requires more than the knowledge of laws, regulations and current government requirements. It demands leadership, vision, and commitment to fully comprehend what challenges Community Colleges face in preparing students for the twenty-first century. The Colleges, both collectively and individually, commit themselves to not only the valuing of human dignity, but to the appreciation of the necessity of providing all members of the College Community an experience that equips them to relate to all persons and groups in the increasingly global and diverse world in which we all live and work.

The Community Colleges wish to take a role of leadership in providing an environment where equity and diversity are truly valued beyond verbal commitments and mere tolerance. This leadership role requires that we all share responsibility for making constructive campus-wide changes in response to the principles set forth in this Policy. By turning our collective energies into making affirmative action an integral part of campus life, we continue to fulfill our mission in developing the talents and potential of all members of our College Communities and our society.

**B. POLICY STATEMENT ON AFFIRMATIVE ACTION, EQUAL OPPORTUNITY & DIVERSITY**

The Board of Higher Education of the Commonwealth of Massachusetts is responsible under Chapter 15A of the General Laws of the Commonwealth of Massachusetts for the overall governance of the public higher education system, which includes the fifteen Community Colleges. The Board of Higher Education and the Boards of Trustees of the Community Colleges maintain and promote a policy of non-discrimination on the basis of race, creed, religion, color, gender, gender identity, sexual orientation, age, disability, genetic information, parental leave, pregnancy, parenting status, military service, national origin, and natural and protective hairstyles (“protected class(s)/classification(s).” Further, this policy prohibits retaliation and incorporates by reference, and where applicable, the requirements of Titles VI and VII of the Civil Rights Act of 1964; Title VI of the Civil Rights Act of 1968; Titles I and II of the Civil Rights Act of 1991; Title IX of the Education Amendments of 1972 and its regulations found at 34 C.F.R. part 106; Equal Pay Act of 1963; Civil Rights Restoration Act of 1988; Sections 503 and 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; Section 402 of the Vietnam-era Veterans Readjustment Act of 1974, Uniformed Services Employment and Reemployment Rights Act (USERRA); Age Discrimination Act of 1975; Age Discrimination in Employment Act of 1967, as amended; Family and Medical Leave Act of 1993; The Providing Urgent Maternal Protections (PUMP) for Nursing Mothers Act; Federal Executive Order 11246 of 1965, as amended by Executive Order 11375 of 1967; Federal Executive Order 12900 of 1994; Federal Executive Order 13145 of 2000; Federal Executive Order 13160 of 2000; Federal Executive Order 13166 of 2000; the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. Sec. 2000ff; the reauthorized Violence Against Women Act, Pub. Law No. 113-4 (2013); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; the Higher Education Act of 1965; Massachusetts Civil Rights Act; Massachusetts General Laws Chapters 151B, 151C, and Chapter 149; An Act Relative to Gender Identity, Mass. Acts of 2011, ch. 199; An Act Relative to Transgender Anti-Discrimination, Mass. Acts of 2016, ch. 134; An Act Expanding Protections for Reproductive and Gender Affirming Care, Mass. Acts of 2022, ch. 127; An Act Relative to Sexual Violence on Higher Education Campus, Mass. Acts of 2020 ch. 337, (also known as the 2021 Campus Sexual Assault Law); An Act Prohibiting Discrimination Based on Natural and Protective Hairstyles (Massachusetts CROWN Act), Massachusetts Acts of 2022, c. 117; directives of the BHE, the Boards of Trustees of the Community Colleges, and the Commonwealth of Massachusetts; and other applicable local, state and federal constitutions, statutes, regulations and executive orders, including those establishing other protected classes.

Non-discrimination requires the elimination of all existing discriminatory conditions, whether purposeful or inadvertent. The Community Colleges are continuing to systematically examine all policies and procedures to be sure that they do not, if implemented as stated, operate to the detriment of any person on the basis of a protected classification. The Colleges shall require that the practices of those responsible in matters of employment and education, including all supervisors and faculty, are non-discriminatory. Should the College discover discrimination in treatment or effect in any employment, educational or service decision, action, inaction or practice within the College, all appropriate corrective and/or disciplinary actions shall be taken under the direction of the President of the College subject to any applicable collective bargaining agreement or other policy or procedure of the College.

The Community Colleges are committed to a policy of affirmative action, equal opportunity, equal education, non-discrimination, and diversity. They are committed to providing a learning, working and living environment – whether in person or in the virtual/online setting - for their students, employees and other members of the College Community, which values the diverse backgrounds of all people. The Colleges are committed to assuring that the “College Experience” is one that challenges, empowers, supports, and prepares its students to live in, work in, and value our increasingly global and diverse world. The Colleges believe that the diversity of socio-economic, racial, ethnic, religious, gender, sexual orientation, age and disability backgrounds of members of the College Community enriches the institutions and their various constituencies. The Colleges will not tolerate behavior based on bigotry, which has the effect of discriminating against any member of their communities.

The Community Colleges provide equal access to educational, co-curricular and employment opportunities at the Colleges for all applicants, students and employees in compliance with all applicable laws, regulations and policies. All benefits, privileges and opportunities offered by the Colleges are available to all students, employees and other persons having dealings with the institutions on a non-discriminatory basis. The Colleges are committed to taking a pro-active affirmative action posture with respect to their recruitment, selection and promotion of students and employees.

The purpose of the affirmative action component of this Policy is to establish a set of programmatic objectives, which shall provide for the recruitment, access and advancement of qualified persons from within the protected classes/classifications recognized under this Policy with respect to employment and enrollment opportunities. The intent of this Policy is to responsibly recognize, and to whatever extent possible, resolve the effects of past societal discrimination and the impact which that discrimination has had, not only on victims of such discrimination, but on the total academic, educational and social system as well. It is not intended and should not be used to discriminate against any applicant, employee, or student because of a protected classification.

In response to that recognition, the Colleges, through their Boards of Trustees and Presidents, fully endorse the plan of action set forth in this Policy and shall oversee and monitor its implementation through the Affirmative Action Officer and other assigned personnel.

The following specific policies are established:

- Equal opportunity and affirmative action shall apply to all segments of the College; full and part-time employment; day and continuing education; the curriculum and offerings of the College.
- Equal opportunity and affirmative action shall be applied to the recruitment process for employment and/or access to education.
- Students will have access to the College, programs of study, activities, and other resources intended to serve them, according to the policies of the individual Colleges.

- Equal employment opportunity and affirmative action will be realized in all personnel employment, including recruitment, application for employment, hiring, benefits, compensation, training, promotion, and termination.
- All policies, procedures, privileges, and conditions of the College will follow and incorporate applicable equal opportunity and affirmative action rules and regulations.

The above-stated policies are intended to be applied broadly with the goal of promoting equal opportunity and diversity in Community Colleges. The Community Colleges pledge to apply all policies consistently, fairly, and vigorously. Attempts to subvert or abuse these policies will not be tolerated. Appropriate disciplinary action will be taken in the case of an infraction. Such disciplinary action shall be consistent with the appropriate collective bargaining agreement, if applicable.

All policies are made in compliance with laws and regulations and executive orders promulgated by the federal and state governments and other appropriate agencies and authorities, where applicable.



## C. DEFINITIONS

**ADA/504 COORDINATOR:** A College employee assigned the responsibility for maintaining the College's compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. Alleged violations of the ADA or Section 504 shall be subject to the Affirmative Action Policy's Complaint Procedure as administered by the Affirmative Action Officer. The ADA/504 Coordinator is Janet Rene and can be contacted at [jrene@necc.mass.edu](mailto:jrene@necc.mass.edu) or (978) 556-3953.

**ADVISOR:** A single person chosen by a Complaining or Responding Party, who may but is not required to be an attorney (for union employees this may be a union representative), who may be present in any meeting or proceeding prescribed by this Policy, and who may inspect and review evidence. The advisor's role is strictly limited to providing direct assistance to the party that they advise for the purposes of the complaint process. An advisor is not to impede, disrupt or hinder the procedures listed within this Policy and/or other institutional policies through intimidation or creating an environment that unreasonably interferes with anyone's ability to participate in the complaint process. Any person serving as an Advisor who is conducting themselves in such a manner is subject to removal from their role.

**AFFIRMATIVE ACTION OFFICER ("AAO"):** A College employee assigned the responsibility of administering the College's Affirmative Action Policy or their designee. The Affirmative Action Officer may also serve as the College's Title IX Coordinator and/or the ADA/504 Coordinator. If the Affirmative Action Officer is the person against whom the complaint is filed, the President shall designate another College official to act as the Affirmative Action Officer for purposes of administering the Affirmative Action Policy. The Affirmative Action Officer is Liz Trelegan and can be contacted at [etrelegan@necc.mass.edu](mailto:etrelegan@necc.mass.edu) or 978-556-3928.

**COMPLAINANT or COMPLAINING PARTY:** The individual(s) filing the complaint, whether it is a current or former student(s) or employee(s), or current or former applicant for admission or employment, or a person other than a student or employee, who is alleged to have been subjected to conduct that could constitute a violation of the Affirmative Action Policy if they were participating or attempting to participate in the College's education program or activity.

**COMPLAINT:** A written or verbal complaint alleging a violation of the Affirmative Action Policy.

**COMPLAINT PROCESS:** The process used to address all Complaints alleging a violation of the Affirmative Action Policy. This may also be referred to as "grievance procedure."

**CONSENT:** "Consent" must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

**DAY:** As used in this policy, shall mean a calendar day.

**DECISION-MAKER:** An individual who is not the same person as the Affirmative Action Officer, Title IX Coordinator or their designee, chosen by the President to reach a determination regarding responsibility by applying the standard of evidence the College has designated in the College's complaint procedures for use in all Complaints.

**EQUAL OPPORTUNITY:** A College's effort to ensure that all personnel and academic decisions, programs and policies are formulated and conducted in a manner which will ensure equal access for all people and prevent discrimination. As part of this effort, a College will ensure that employment and academic decisions, programs and policies will be based solely on the individual eligibility, merit or fitness of applicants, employees and students without regard to race, color, creed, religion, national origin, age, disability, sex, marital status, military service, gender identity, genetic information, sexual orientation, natural and protective hairstyles, or political or union affiliation.

**EMPLOYEE:**

(A) **CONFIDENTIAL EMPLOYEE:** Confidential employee means

1. An employee of the College whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;
  - a) Confidential Employees include:
    - i. licensed mental health counselors;
    - ii. licensed health care personnel;
    - iii. Confidential Resource Providers; and
    - iv. other employees as designated by the College.
  - b) A list of Confidential Employees shall be posted at the College.
2. An employee of the College whom the College has designated as confidential under this part for the purpose of providing services to persons related to Sex-Based Harassment. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about Sex-Based Harassment in connection with providing those services; or
3. An employee of the College who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex-Based Harassment – but the employee's confidential status is only with respect to information received while conducting the study.

(B) **IMPARTIAL EMPLOYEE OR IMPARTIAL MEDIATOR:** An employee who has not participated in the complaint at issue, and has no conflict of interest or bias regarding the matter

being addressed. The employee must have training or experience in mediating matters subject to this complaint process.

(C) **NONCONFIDENTIAL EMPLOYEES WITH AUTHORITY:** Allegations involving Sex-Based Harassment shall be reported by all “Nonconfidential Employees with Authority” to the Title IX Coordinator or official designee as soon as the employee becomes aware of it. A Nonconfidential Employee with Authority includes any College employee: who has the authority to take action to redress these offenses; who has been given the duty of reporting to the Title IX Coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty. Nonconfidential Employees with Authority shall include, but are not be limited to, College trustees, administrators, department chairs, program coordinators, campus police, club/activity advisors, coaches, managers or supervisors. Nonconfidential Employees may not maintain the anonymity of the reporting party when they receive a complaint and are required to share this information with the Title IX Coordinator.

(D) **NONCONFIDENTIAL EMPLOYEES WITHOUT AUTHORITY:** A Nonconfidential Employee without Authority includes all other College employees who are not otherwise considered a “Confidential Employee” or a “Nonconfidential Employee with Authority” as defined in this Policy, including but not limited to, faculty, adjunct instructors and staff. “Nonconfidential Employees without Authority” shall either (1) provide the contact information of the Title IX Coordinator and information on how to make a complaint of Sex-Based Harassment or (2) notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Sex-Based Harassment. Nonconfidential Employees may not maintain the anonymity of the reporting party and are required to share this information with the Title IX Coordinator.

**INFORMAL RESOLUTION:** A mutual and voluntary agreement between the parties to resolve the allegations through either mediation or an administrative remedy, that is reached at any time prior to determining whether the alleged conduct occurred.

**IMPERMISSIBLE EVIDENCE:**

- (i) Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- (ii) A party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional in connection with the provision of treatment to the party or witness, unless the College obtains that party’s or witness’s written consent for use in the College’s complaint processes; and
- (iii) Evidence that relates to the Complainant’s sexual interests or prior sexual conduct, unless evidence about the Complainant’s prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant’s prior sexual conduct with the Respondent that is offered to prove consent to the alleged Sex-Based Harassment. The fact of prior consensual sexual conduct between the Complainant and

Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged Sex-Based Harassment or preclude that Sex-Based Harassment occurred.

**PREPONDERANCE OF EVIDENCE:** The evidentiary standard used in resolving all complaints filed under this Policy's Complaint Process. The standard is met if the proposition is more likely to be true than not true (i.e.; more probable than not). Effectively, the standard is satisfied if there is greater than a 50 percent chance that the proposition is true.

**PROHIBITED CONDUCT:** The following conduct is prohibited under this Policy:

1. **Discrimination:** An intentional or unintentional act which adversely affects employment and/or educational opportunities because of a person's perceived or actual membership in a protected class or association with a member(s) of a protected class. Discrimination may be classified as either disparate impact (practices that are facially neutral in their treatment of different groups but that in fact fall more harshly on one group than another and cannot be justified by business necessity) or disparate treatment (treatment of an individual that is less favorable than treatment of others based on discriminatory reasons). A single act of discrimination or discriminatory harassment may be based on more than one protected class status. For example, discrimination based on anti-Semitism may relate to religion, national origin, or both; discrimination against a pregnant woman may relate to sex, marital status, or both; or discrimination against a transgender individual may relate to gender identity, sex or sexual orientation.
2. **Discriminatory Harassment:** Discriminatory harassment. A form of discrimination including verbal and/or physical conduct based on legally protected characteristics and/or perceived or actual membership in a protected class that:
  - a. has the purpose or effect of creating an objectively intimidating, hostile or offensive work or educational environment;
  - b. has the purpose or effect of unreasonably interfering with an individual's work or learning performance; or
  - c. otherwise unreasonably adversely affects an individual's employment or educational opportunities.

For purposes of this Policy, conduct constitutes hostile environment harassment when it:

- a. is targeted against an individual(s) on the basis of their membership in a protected class;
- b. is not welcomed by the individual(s); and
- c. is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive.

The determination of whether an environment is "hostile" is based on the totality of the circumstances. These circumstances could include the frequency of the conduct, its severity, and whether it is threatening or humiliating.

3. **Retaliation**: Intimidation, threats, coercion, or discrimination against any person by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College’s education program or activity, for the purpose of interfering with any right or privilege under this Policy. Retaliation includes taking adverse employment or educational action against a person who files claims, complaints or charges under this Policy, or under applicable local, state or federal statute, who is suspected of having filed such claims, complaints or charges, who has assisted or participated in an investigation or resolution of such claims, complaints or charges, or who has protested practices alleged to be violative of the non-discrimination policy of the College, the BHE, or local, state or federal regulation or statute. Retaliation, even in the absence of provable discrimination in the original complaint or charge, constitutes as serious a violation of this Policy as proved discrimination under the original claim, complaint or charge. Whether a particular action is adverse in any given case would require a fact-specific analysis of how the action would affect a reasonable person in the Complainant’s position.

#### 4. **Sex-Based Harassment**

“Sex-Based Harassment” means any discrimination based on sex (male, female, intersex), including but not limited to, sexual harassment and harassment based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity,<sup>1</sup> *quid pro quo* harassment, hostile environment harassment, or one of four specific sex offenses referenced in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) as amended by the Violence Against Women Act of 2013, or any offenses referenced in the Massachusetts Campus Sexual Violence Law of 2021.

(1) ***Quid pro quo harassment***. An employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College’s education program or activity explicitly or implicitly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.

(2) ***Hostile environment harassment***. Unwelcome sexual-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is sufficiently severe or pervasive that it limits or denies a person’s ability to participate or benefit from the College’s education program or activity (i.e. creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- i. The degree to which the conduct affected the Complainant’s ability to access the College’s education program or activity;
- ii. The type, frequency, and duration of the conduct;
- iii. The parties’ ages, roles within the College’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

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<sup>1</sup>The College will not carry out different treatment or separation on the basis of sex by subjecting a person to more than *de minimis* harm except where permitted in limited circumstances. Adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person’s gender identity subjects a person to more than *de minimis* harm on the basis of sex and is a *per se* violation of this Policy.

- iv. The location of the conduct and the context in which the conduct occurred;
- v. Other Sex-Based Harassment in the College's education program or activity; or

**(3) Specific offenses.**

- (i) **Sexual assault** meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system by the Federal Bureau of Investigation;
- (ii) **Dating violence** meaning violence committed by a person:
  - A. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - B. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - i. The length of the relationship;
    - ii. The type of relationship; and
    - iii. The frequency of interaction between the persons involved in the relationship
- (iii) **Domestic violence** meaning felony or misdemeanor crimes committed by a person who:
  - A. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the College, or a person similarly situated to a spouse of the victim;
  - B. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - C. Shares a child in common with the victim; or
  - D. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction
- (iv) **Stalking** meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - A. Fear for the person's safety or the safety of others; or
  - B. Suffer substantial emotional distress.

**PROTECTED CLASS(S)/CLASSIFICATION(S):** Characteristics or groups of persons protected from discrimination by law and under this Policy, including:

- a. **Age** - Persons 40 years of age or older.
- b. **Color** - Variations in skin tone among persons of the same race.

- c. **Disability** - A person with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.
- d. **Ethnicity** - See National Origin.
- e. **Gender Identity** - An individual's sense of their gender as male, female, a blend of both, or neither, which may or may not be different from their sex assigned at birth. Gender identity is a term that covers a multitude of identities including, but not limited to, gender nonconforming individuals, nonbinary individuals, and transgender individuals, and includes any person whose gender identity or gender presentation falls outside of or is perceived to be outside stereotypical gender norms.
- f. **Genetic Information** - Any written, recorded individually identifiable result of a genetic test or explanation of such a result or family history pertaining to the presence, absence, variation, alteration, or modification of a human gene or genes.
- g. **LGBTQIA+**: Refers to people who are lesbian, gay, bisexual, transgender, queer, questioning, asexual, intersex, nonbinary, or describe their sex characteristics, sexual orientation, or gender identity in another similar way.
- h. **National Origin** - A "national origin group" or "ethnic group" is a group sharing a common language, culture, ancestry, and/or other similar social characteristics.
- i. **Natural and Protective Hairstyles** – all hairstyles covered under the Massachusetts CROWN Act, including but not limited to, braids, locks, twists, Bantu knots, hair coverings and other formations.
- j. **Parental Status:** The status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of physical or mental disability, is:
  - 1) Biological parent;
  - 2) An adoptive parent;
  - 3) A foster parent;
  - 4) A stepparent
  - 5) A legal custodian or guardian;
  - 6) *In loco parentis* with respect to such person; or
  - 7) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- k. **Persons of Color** - Members of the following racial classifications: Black, American Indian/Native Alaskan, Asian/Pacific Islander, and Hispanic/Latino.
- l. **Pregnancy or Related Condition:** Pregnancy, childbirth, termination of pregnancy, or lactation; or medical conditions related to pregnancy, childbirth, termination of pregnancy,

or lactation; or recovery from pregnancy, termination of pregnancy, lactation or related medical conditions.

**m. Race** - Discrimination laws do not contain a definition of “race,” but are interpreted to prohibit discrimination on the basis of ancestry or physical or cultural characteristics associated with a certain race, such as skin color, hair texture or styles, or certain facial features, and on the basis of stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups. All individuals, including persons of more than one race and the following racial classifications, are protected from discrimination:

- **Black:** All persons having origins in any of the Black racial groups of Africa.
- **White (not of Hispanic origin):** Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **Hispanic/Latino:** All persons of Mexican, Puerto Rican, Cuban, Central, Latin or South American or other Spanish culture or origin, regardless of race.
- **Cape Verdean:** All persons having origins in the Cape Verde Islands.
- **Asian or Pacific Islander:** All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands, including, for example, the areas of China, India, Japan, Korea, the Philippine Islands and Samoa.
- **American Indian or Alaskan Native:** All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

**n. Religion** - “Religion” and “creed” have the same or equivalent meaning: all religious and spiritual observances, practices, and sincerely held beliefs.

**o. Sex Characteristics:** Sex characteristics is intended to refer to physiological sex-based characteristics. Discrimination based on a person’s physiological sex characteristics may include discrimination based on a person’s anatomy hormones, and chromosomes associated with male or female bodies. Discrimination on the basis of sex characteristics includes discrimination based on intersex traits.

**p. Sexual Orientation** - Actual or perceived heterosexuality, homosexuality, bisexuality, pansexuality, or asexuality either by orientation or by practice, including but not limited to LGBTQIA+ people as defined in this policy.

**q. Sex Stereotypes:** Fixed or generalized expectations regarding a person’s aptitudes, behavior, self-presentation, or other attributes based on sex.



- r. **Veteran** - Any person who is a member of, applies to perform, or has an obligation to perform, service in a uniformed military service of the United States, including the National Guard.

If at any time subsequent to the implementation of this Policy, additional protected classifications are established, individuals in those classifications shall be protected against discrimination under this Policy.

**RESPONDENT OR RESPONDING PARTY:** The person against whom a complaint is directed, including an individual who has been reported to be the perpetrator of conduct that could constitute Sex-Based Harassment. Only a person in their individual capacity can be a Respondent in a complaint process. The Respondent is presumed not responsible.

**SUPPORTIVE MEASURES:** Supportive measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

1. Restore or preserve that party's access to the College's education program or activity, including measures that are designed to protect the safety of the parties or the College's educational environment; or
2. Provide support during the College's complaint processes or during an informal resolution process or mediation.

**TIME:** The number of days indicated at each level shall be considered as a maximum. All reasonable efforts shall be made to expedite the process, but the President or their designee may extend the time limits in extenuating circumstances with notice to the parties in writing, or by mutual written agreement between the parties.

**TITLE IX COORDINATOR:** A College employee, or their designee, assigned the responsibility for maintaining the College's compliance with Title IX, the Massachusetts Campus Sexual Violence Law of 2021, and the related policies of the College. The Title IX Coordinator is responsible for administering this Policy, the Sex-Based Harassment Policy, and its Sex-Based Harassment Complaint Process. The Title IX Coordinator may also serve as the College's Affirmative Action Officer. If these positions are held by different individuals, the AAO and the Title IX Coordinator may collaborate on the enforcement of any aspect of this Policy. The Title IX Coordinator should not have other job responsibilities that may create a conflict of interest. For example, serving as the Title IX Coordinator and a disciplinary hearing board member or general counsel may create a conflict of interest. There may also be a Deputy Title IX Coordinator designated to assist the Title IX Coordinator in the performance of their duties. The College's Title IX Coordinator is Liz Trelegan and can be contacted at [etrelegan@necc.mass.edu](mailto:etrelegan@necc.mass.edu) or 978-556-3928.

## **D. SPECIFIC POLICIES**

### **I. SUPPORT OF AND COMMITMENT TO DIVERSITY**

The Community Colleges have historically been a major contributing element to the emergence of our nation as one of the most technologically and economically advanced societies of the world. The important role that the Community Colleges can play is profoundly dependent upon the extent to which they may draw from the full collective of intellectual resources within each College's community of scholars, students, and administrators. Any condition or force that impedes the fullest utilization of the human and intellectual resources available represents a force of destructive consequence for the development of our Commonwealth, and ultimately, our nation.

Community College students, faculty, staff and visitors must be free from conduct that has the purpose or effect of interfering with an individual's academic or professional performance and creating an intimidating, hostile or demeaning educational or employment environment. Therefore, the Community Colleges establish a policy of unequivocal condemnation of all forms of ethnic, religious, cultural, or racial intolerance within the fifteen College communities.

This policy condemns all conditions and all actions or omissions, including all acts of verbal harassment or abuse, which deny or have the effect of denying to an individual their rights to equality, dignity and security in violation of their rights guaranteed under the law. The policy reaffirms the doctrine of civility, appreciation for pluralism and the pre-eminence of individual human dignity as preconditions to the achievement of an academic community that recognizes and utilizes the resources of all persons while recognizing and reaffirming the tenets of academic freedom as stated in applicable collective bargaining agreements. The Community Colleges recognize their obligation to protect the rights of free inquiry and expression, and nothing herein shall be construed or applied so as to abridge the exercise of rights under the Constitution of the United States and other federal and state laws.

The Community Colleges will vigorously strive to achieve diversity sufficiently reflective of our society. However, diversity alone will not suffice. There must be a unity and cohesion in the diversity that we seek to achieve, thereby creating an environment of pluralism.

The Community Colleges bear a responsibility by edict and an obligation by social morality to promote understanding and acceptance of ethnic, cultural, religious and racial diversity as we strive to create an atmosphere of dignity for all individuals and groups within our system of public higher education. The President or their designee will take reasonable measures to prevent and discourage harassment and will act positively to investigate alleged harassment and to affect a remedy or resolution when an allegation is determined to be valid.

## **II. POLICY AGAINST PROHIBITED CONDUCT**

### **a. Introduction**

The mission of the Community Colleges is to educate, train and prepare our students to live and work in our increasingly global and diverse workforce. It is our commitment to take all possible steps to provide an inclusive and diverse learning, living, and work environment that values diversity and cultural tolerance and looks with disfavor on intolerance and bigotry. Any condition or force that impedes the fullest utilization of the human and intellectual resources available represents a force of destructive consequences for the development of our Commonwealth and ultimately, our nation.

### **b. Definitions**

Prohibited Conduct includes: Discrimination, Discriminatory Harassment, Sex-Based Harassment and Retaliation. These terms and all Protected Class(s)/Classification(s) are defined under the “Definitions” section of this Policy.

### **c. Policy Prohibitions**

The Policy prohibits all conditions and all actions or omissions, which deny or have the effect of denying to any person their rights to equity and security on the basis of their membership in or association with a member(s) of any protected class. This policy reaffirms the values of civility, appreciation for racial/ethnic/cultural/religious pluralism and pre-eminence of individual human dignity as preconditions to the achievement of an academic community, which recognizes and utilizes the resources of all people.

In order to promote an atmosphere in which diversity is valued and the worth of individuals is recognized, the Colleges will distribute policy statements and conduct educational programs to combat all Prohibited Conduct.

The prohibition on Prohibited Conduct contained in this Policy shall apply to and be enforced against all members of the College community, including, but not limited to, faculty, librarians, administrators, staff, students, vendors, contractors and all others having dealings with the institution.

### **d. Conduct That is Not Prohibited**

The Community Colleges are committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service, and research. Nothing in this Policy shall be construed to penalize a member of the College community for expressing an opinion, theory, or idea in the process of responsible teaching and learning. Accordingly, any form of speech or conduct that is protected by the principles of academic freedom or the First Amendment to the United States Constitution is not subject to this policy.

#### **e. Complaint Procedures**

The Community Colleges have established a specific internal procedure to help resolve claims and complaints of violations of this Policy on their campuses (see Section L “Complaint Procedures”). Any current or former student(s) or employee(s), or current or former applicant for admission or employment, or a person other than a student or employee if they were participating or attempting to participate in the College’s education program or activity, who believes that they have been subjected to Prohibited Conduct may initiate a complaint as outlined herein. Prohibited Conduct that occurs under a recipient’s education program or activity includes, but is not limited to, conduct that occurs in a building owned or controlled by a student organization that is officially recognized by the College, and conduct that is subject to the College’s disciplinary authority. Further advice or information may be obtained by contacting the Affirmative Action Officer or Title IX Coordinator.

#### **f. Duty to Cooperate**

Every faculty member, librarian, administrator, staff member, employee, agent, or other person authorized by the College to provide aid, benefit, or service under the College’s education or activity has a duty to cooperate fully and unconditionally in an investigation conducted pursuant to this Policy’s Complaint Procedure, subject to the provisions of any relevant collective bargaining agreements. In addition, every individual participating or attempting to participate in the College’s education program or activity has a duty to cooperate fully and unconditionally in an investigation conducted pursuant to this Policy’s Complaint Procedure.

This duty includes, among other things, speaking with the Affirmative Action Officer, Title IX Coordinator or other authorized personnel or investigator and voluntarily providing all information and documentation which relates to the claim being investigated. The failure and/or refusal of any employee to cooperate in an investigation may result in disciplinary action up to and including termination.

#### **g. Duty to Report**

- **General Responsibility to Report Prohibited Conduct**

No member of the College community who receives a complaint of Prohibited Conduct can ignore it; they should give to the person making the complaint as much assistance in bringing it to the attention of the Affirmative Action Officer or Title IX Coordinator as is reasonably appropriate given their position at the College and relationship with the person making the complaint.

- **Reporting of Sex-Based Harassment by Nonconfidential Employees**

Allegations involving Sex-Based Harassment shall be reported by all “Nonconfidential Employees with Authority” to the Title IX coordinator or official designee as soon as the employee becomes aware of it. A Nonconfidential Employee with Authority includes any College employee: who has the authority to take action to redress Sex-Based Harassment; who has been given the duty of reporting Sex-Based Harassment to the Title IX Coordinator or other appropriate school designee;

or whom a student could reasonably believe has this authority or duty. Nonconfidential Employees with Authority shall include, but are not be limited to, College trustees, administrators, department chairs, program coordinators, campus police, club/activity advisors, coaches, managers or supervisors.

“Nonconfidential Employees without Authority”, which consists of all other College employees, including but not limited to, faculty, adjunct instructors and staff, shall either (1) notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Sex-Based Harassment or (2) provide the contact information of the Title IX Coordinator and information on how to make a complaint of Sex-Based Harassment.

Nonconfidential Employees may not maintain the anonymity of the reporting party and are required to share this information with the Title IX Coordinator.

- **Failure to Report by Nonconfidential Employees**

Incidents of Failure to Report by Nonconfidential Employees will be investigated by the Title IX Coordinator as a violation of this Policy. A Nonconfidential Employee found responsible for failing to notify the Title IX Coordinator of conduct that reasonably may constitute Sex-Based Harassment or failing to provide an individual with the contact information of the Title IX Coordinator and information on how to make a complaint of Sex-Based Harassment, may be subject to discipline. Discipline for violating this Policy may include, but is not limited to, mandatory counseling or training, verbal or written warnings, suspension, termination from employment, and/or expulsion from the College.

- **Mandatory Reporting of Abuse Under State Law**

Children (a person under the age of 18) may be students at the College, or may be engaged in activities sponsored by the College or by third-parties utilizing College facilities. In such instances, where an employee has reasonable cause to believe that a child is suffering physical or emotional injury, resulting from among other causes, sexual abuse, including Sex-Based Harassment, the employee and the College may be obligated to comply with the mandatory reporting requirements established at M.G.L. Chapter 119, Section 51A-E. In such cases, the employee is directed to immediately report the matter to the College’s Affirmative Action and/or Title IX Coordinator, who, in consultation with other officials, shall contact the Commonwealth’s Department of Children and Families and/or law enforcement. An employee may also contact local law enforcement authorities or the Department of Children and Families directly in cases of suspected abuse or neglect. State law also maintains mandatory reporting requirements for certain occupations where abuse or neglect is suspected of adults age 60 or older or children and adults with disabilities. For more information on these reporting requirements please contact the College’s Affirmative Action Officer or Title IX Coordinator.

Any member of the College community who has a question about their responsibilities under this Policy should contact the Affirmative Action Officer or Title IX Coordinator.

### **III. SEX-BASED HARASSMENT POLICY**

#### **a. Introduction**

It is the goal of the Community Colleges to promote an educational environment and workplace that is free of all forms of Sex-Based Harassment. Sex-Based Harassment of students or employees occurring in or limiting access to an education program, activity, or workplace will not be tolerated by the College. Further, any retaliation against an individual who has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an informal resolution process, in complaint processes, or in any other actions taken by a College will not be tolerated. To achieve our goal of providing a campus and workplace free from Sex-Based 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 students or employees.

Because the Community Colleges take allegations of Sex-Based Harassment seriously, we will respond promptly to complaints of Sex-Based Harassment and where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective measures, including disciplinary action where appropriate and consistent with applicable collective bargaining agreements.

The Community Colleges do not discriminate on the basis of sex and prohibit Sex-Based Harassment in any education program, activity, or workplace that it operates, as required by Title IX, including in admission and employment.

The College will provide a notice of nondiscrimination to students; employees; applicants for admission and employment; and all unions and professional organizations holding collective bargaining or professional agreements with the College.

Inquiries about Title IX maybe referred to the College's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

The College's Title IX Coordinator is *[name or title, office address, email address, and telephone number]*.

The College's nondiscrimination policy and complaint processes can be located at *[include link to location(s) on website or otherwise describe location(s)]*.

To report information about conduct that may constitute Sex-Based Harassment or make a complaint of Sex-Based Harassment under Title IX, please refer to *[include link to location(s) on website or otherwise describe location(s)]*.

## **b. Definition of Sex-Based Harassment**

Sex-Based Harassment, as defined under the “Definitions” section of this Policy, means any discrimination based on sex, including but not limited to, sexual harassment and harassment based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity, *quid pro quo* harassment, hostile environment harassment, or one of four specific sex offenses referenced in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) as amended by the Violence Against Women Act of 2013, or any offenses referenced in the Massachusetts Campus Sexual Violence Law of 2021.

All employees and students should take special note that, as stated above, retaliation against an individual who has made a complaint about Sex-Based Harassment, or retaliation against individuals who have cooperated with an investigation of Sex-Based Harassment will not be tolerated by the Community Colleges.

## **c. Confidential Reporting Resources**

Persons who have experienced prohibited forms of Sex-Based Harassment under this Affirmative Action Policy may share information confidentially with Confidential Employees who cannot reveal identifying information to any third party unless one or more of the following conditions is present:

- the individual has provided written consent to disclose information;
- there is a concern about imminent harm to self or others;
- the information concerns the neglect or abuse of someone who is a minor, elderly, or disabled; or
- an employee is responsible for providing non-identifiable information for purposes of the Clery Act.

Please bear in mind, however, that if one requests certain supportive measures from the College (e.g., extension for academic work, or changing classes or work locations), other College officials may be contacted only for the purpose of providing the requested measures. In such cases, one’s privacy will be maintained to the extent that respecting confidentiality will not impair the College’s ability to provide the requested measures. One may also confidentially report any form of Sex-Based Harassment, sexual assault, domestic violence, dating violence, stalking, and/or retaliation as well as other forms of sexual violence and gender-based harassment to community support resources, which are not required to share information with the College.

Confidential resources include those who provide privileged and confidential support, such as physicians and clergy, regardless of whether they are employed by the College.

## **d. Complaints of Sex-Based Harassment**

All Complaints of Sex-Based Harassment shall proceed under this Policy’s Complaint Process. To make a complaint a person may do so by contacting the College’s Title IX Coordinator. The individuals who have a right to make a complaint of Sex-Based Harassment include a

Complainant; a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant, and the Title IX Coordinator.

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator may determine whether to initiate a complaint of Sex-Based Harassment. To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:

- (1) The Complainant's request not to proceed with initiation of a complaint;
- (2) The Complainant's reasonable safety concerns regarding initiation of a complaint;
- (3) The risk that additional acts of Sex-Based Harassment would occur if a complaint is not initiated;
- (4) The severity of the alleged Sex-Based Harassment, including whether a violation, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Sex-Based Harassment and prevent its recurrence;
- (5) The age and relationship of the parties, including whether the Respondent is an employee of the College;
- (6) The scope of the alleged Sex-Based Harassment, including information suggesting a pattern, ongoing Sex-Based Harassment, or Sex-Based Harassment alleged to have impacted multiple individuals;
- (7) The availability of evidence to assist a Title IX Coordinator in determining whether Sex-Based Harassment occurred; and
- (8) Whether the College could end the alleged Sex-Based Harassment and prevent its recurrence without initiating a complaint.

#### **e. Sex-Based Harassment Investigation**

A Complaint of Sex-Based Harassment will be promptly investigated in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will be conducted in accordance with this Policy's Complaint Process and may include a private interview with the person filing the complaint and with witnesses. The person alleged to have committed Sex-Based Harassment will also be interviewed.

The investigation process for complaints of Sex Based Harassment enables the Title IX Coordinator to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of Sex-Based Harassment. The Title IX Coordinator may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible, however, the Title IX Coordinator must not draw an inference about whether Sex-Based Harassment occurred based solely on a party's or witness's refusal to respond to such questions.



Once the investigation is complete, the College will, to the extent appropriate, inform the parties of the results of that investigation.

If it is determined that a violation of this Policy has occurred, the College will act promptly to eliminate the offending conduct, and where it is appropriate also impose disciplinary sanctions.

#### **f. Disciplinary Action**

Discipline for violating this Policy may include, but is not limited to, mandatory counseling or training, verbal or written warnings, suspension, termination from employment, or expulsion from the College.

#### **g. Consensual Relationships**

##### **• Faculty/Administrator/Staff Member Relationships with Students**

A romantic and/or sexual relationship, consensual or otherwise, between a faculty member, administrator or staff member and a student is looked upon with disfavor and is strongly discouraged. No faculty member shall have a romantic and/or sexual relationship, consensual or otherwise, with a student who is being taught or advised by the faculty member or whose academic work is being supervised or evaluated, directly or indirectly, by the faculty member. No administrator or staff member shall have a romantic and/or sexual relationship, consensual or otherwise, with a student who the administrator or staff member supervises, evaluates, advises, or provides other professional advice or services as part of a College program or activity.

##### **• Relationships Between Supervisors, Subordinates or Co-Workers**

A consenting romantic and/or sexual relationship between a supervisor and subordinate or co-workers may interfere with or impair the performance of professional duties and responsibilities and/or create an appearance of bias or favoritism. Further, such relationships could implicate state ethics laws and/or result in claims of Sex-Based Harassment or retaliation. Therefore, such workplace relationships are strongly discouraged.

#### **h. Identification**

Personally identifiable information about parties of Sex-Based Harassment will be treated as confidential and only shared with persons with a specific need to know and/or who are investigating and/or adjudicating the complaint, delivering resources or support services to the Complainant or as public safety requires. The College does not publish the names or other identifiable information of parties of Sex-Based Harassment in the campus police department's Daily Crime Log, in any Timely Warnings issued or online. In accordance with the Family Educational Rights and Privacy Act (FERPA), an individual may request that no directory information maintained by the College be released absent their prior, written consent.

### **i. Supportive Measures**

Title IX requires the College to offer and coordinate, as appropriate, as reasonably available, non-disciplinary/non-punitive reasonable steps to preserve or restore equal access to its education programs and activities. Supportive measures protect individuals from any Sex-Based Harassment or other Prohibited Conduct, including offering supportive measures during the investigation or informal resolution process, irrespective of whether the Complainant ever chooses to file a Complaint. Such measures must not unreasonably burden either party, must not be for punitive or disciplinary reasons, and must be without fee or charge to either party. The College shall take these steps promptly once it has notice of an allegation of Sex-Based Harassment. Examples of interim protective measures include, but are not limited to, the following:

- Counseling;
- Extensions of deadlines or other course-related adjustments (for example: changing class schedule, withdrawal without penalty, providing student services such as tutoring, alternate class completion options);
- Modifications of work schedules or job assignments;
- Campus escort services;
- Increased security and monitoring of certain areas of the campus;
- Restrictions on contact applied to one or more parties;
- Changes in class, work housing, or extracurricular, or any other activity, regardless of whether there is or is not a comparable alternative;
- Leaves of absence;
- Training and education programs related to Sex-Based Harassment; and
- Other similar measures.

The specific supportive measures implemented and the process for implementing those measures will vary depending on the facts of each case. The College will consider a number of factors in determining what supportive measures to take, including, for example, the specific needs expressed by either party; the severity or pervasiveness of the allegations; any continuing effects on either party; whether the parties share the same classes, dining schedule, transportation, or job location; and whether other judicial measures have been taken to protect either/both parties (*e.g.*, civil protection orders).

In general, when taking supportive measures, the College shall minimize the burden on either party. The College must maintain as confidential any supportive measures provided to either party, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures.

### **j. Amnesty**

Students may be hesitant to report Sex-Based Harassment out of concern that they, or witnesses, might be charged with violations of the College's drug/alcohol policy and/or the Student Code of Conduct. While the College does not condone such behavior, it places a priority on addressing allegations of Sex-Based Harassment. Accordingly, the College may elect not to pursue discipline

against a student who, in good faith, reports, witnesses or possesses personal knowledge of an incident of Sex-Based Harassment.

**k. Protections for Complainant Regarding Sexual Assault**

A person subjected to Sexual Assault shall:

- Be provided with a copy of the College's *Sex-Based Harassment – Complainant's Rights and Information Advisory*, which shall include information concerning counseling, health, and mental health services, victim advocacy and support, law enforcement assistance, and other services available on and off campus;
- Have the right to pursue, or not pursue, assistance from campus administration officials or campus law enforcement;
- Not be discouraged by College officials from reporting an incident to both on-campus and off-campus authorities;
- Be provided assistance in contacting local law enforcement if requested and have the full and prompt assistance and cooperation of campus personnel should a civil and/or criminal complaint be pursued;
- Be free from any suggestion that they somehow contributed to or had a shared responsibility in the violent act;
- Receive the same level of support at any proceeding before College officials as is permitted to the accused party, including the presence of an advisor during any disciplinary proceeding and the right to be notified in a timely manner of the outcome of such proceedings and any appeal right available;
- Receive full and prompt cooperation from College personnel in obtaining and securing evidence (including medical evidence) necessary for any potential criminal proceedings;
- Have access to existing College counseling and medical professionals, victim support services, and to obtain referrals to off-campus counseling and support services if desired;
- Be permitted to attend classes, work and participate in College activities free from unwanted contact or proximity to the Respondent insofar as the College is permitted and able;
- Be permitted to request changes to an academic schedule if such changes are requested by the alleged victim and are reasonably available; and

- Be informed of any no-contact or no-trespass orders issued to the Respondent by the College and the College’s commitment to honor any court-issued restraining or protective orders, to the extent permitted by law.

### **l. Recommended Procedures for a Victim of Sexual Assault**

For a person subjected to an act of sexual assault, there can be time-sensitive decisions to make about sexually transmitted infections, pregnancy, and collecting physical evidence in the event of prosecution. Individuals who have been victims of sexual assault are advised as follows:

- **Protect Yourself and Get Medical Attention** – A victim should be advised to go to a safe place as soon as possible and seek medical attention immediately. Injuries and exposure to disease may not be immediately apparent. A medical examination can provide necessary treatment and collect important evidence. It is recommended that a physical exam be conducted within 72 hours of the sexual assault. Submitting to a physical exam does not mean that a victim is required to press charges. This action merely preserves the option to do so. Designated College personnel can assist in providing transportation to the hospital.
- **Preserve Evidence** - It is important to preserve all physical evidence following an act of sexual assault. Physical evidence may be necessary in the event criminal prosecution is pursued. If possible, a victim should be advised not to wash, eat, drink, douche, clean, use the bathroom, or change clothes. If clothes are changed, all clothes that were worn at the time of the incident should not be cleaned and should be placed into an unused or a clean paper bag.
- **Health and Support Services** - Various health and support services are available on and off campus for students and employees who have experienced sexual assault. For information about such services, including counseling, please contact the Title IX Coordinator.

### **m. Rape Crisis Center Contact Information<sup>2</sup>**

Rape Crisis Centers offer FREE services to survivors of sexual assault, including:

- 24/7 hotline counseling, information, and referral;
- Will go with survivors to hospitals and/or police stations 24/7;
- Will go with a survivor to court;
- Provide one-to-one counseling and support group counseling; and
- Provide primary prevention education; professional training; outreach.

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<sup>2</sup> Contact information for Massachusetts Rape Crisis Centers *may be subject to change*. Current contact information can be found at the Commonwealth’s Executive Office of Health and Human Services’ Website under “Consumer” information at <http://www.mass.gov/eohhs/> or <https://www.mass.gov/info-details/rape-crisis-centers>.

**Central Massachusetts**

Rape Crisis Center of Central Mass., Worcester, 800-870-5905 Hotline, 888-887-7130 TTY  
Rape Crisis Center of Central Mass., Milford, 800-511-5070 Hotline, 508-478-4205 TTY

**Greater Boston Area**

Boston Area Rape Crisis Center, Cambridge, 1-800-841-8371 Hotline, 617-492-8306 TTY

**Northeastern Massachusetts**

YWCA Northeastern Massachusetts, (877) 509-9922, TTY: (978) 686-8840  
Rape Crisis Services of Greater Lowell, 800-542-5212 Hotline, 978-452-8723 TTY  
YWCA North Shore Rape Crisis Center, Lynn, (800) 509-9922 Hotline

**Southeastern Massachusetts**

A Safe Place, Nantucket, 508-228-2111 Hotline, 508-228-7095 TTY  
Independence House, Hyannis, 800-439-6507 Hotline, 508-771-6782 TTY  
Women Support Services, Vineyard Haven, 508-696-7233 Hotline, 774-549-9659 TTY  
Greater New Bedford Women Center, New Bedford, 508-996-6636 Hotline, 508-996-1177 TTY  
New Hope, Attleboro, 800-323-4673 Hotline, 508-323-4673 TTY  
Womansplace Crisis Center, Brockton, 508-588-8255 Hotline, 508-894-2869 TTY

**Western Massachusetts**

Elizabeth Freeman Center, Pittsfield, 866-401-2425 Hotline, 413-499-2425 TTY  
Everywoman Center, Amherst, 413-545-0800 Hotline, 413-577-0940 TTY  
NELCWIT, Greenfield, 413-772-0806 Hotline, 413-772-0815 TTY  
YWCA, Springfield, 800-796-8711, 413-733-7100 TTY

**n. State and Federal Remedies**

Filing a complaint under this Policy does not prohibit you from filing a formal complaint with the governmental agencies set forth below.

**Massachusetts Commission Against Discrimination ("MCAD")**

<b>Boston Office:</b>	<b>Worcester Office:</b>	<b>Springfield Office:</b>
One Ashburton Place	Worcester City Hall	436 Dwight St., Rm. 220
Rm. 601	18 Chestnut St., Rm. 520	Springfield, MA 01103
Boston, MA 02108	Worcester, MA 01608	(413) 739-2145
(617) 994-6000	(508) 453-9630	

**United States Equal Employment Opportunity Commission ("EEOC")**

15 New Sudbury Street  
Room 475, MA 0203-0506  
1-800-669-4000

**United States Department of Education Office For Civil Rights (“OCR”)**  
5 Post Office Square, 8<sup>th</sup> Floor  
Boston, MA 02109  
(617) 289-0111

#### **IV. NON-DISCRIMINATION AND ACCOMMODATION FOR PERSONS WITH DISABILITIES**

It is illegal to discriminate against an otherwise qualified individual with a disability. The Community Colleges recognize the multitude of barriers that confront persons with disabilities in access to both employment and education. Consistent with state and federal statutes that affirm and protect the equal opportunity rights of persons with disabilities, the Community Colleges adopt a policy of non-discrimination and equal opportunity for otherwise qualified persons with disabilities. Any employee or student who believes they have been a victim of discrimination due to a disability may file a complaint pursuant to the Complaint Procedures found at Section L of this Policy.

##### **a. In Employment**

The Community Colleges will take constructive measures to ensure equal opportunity in all areas of employment including recruitment, selection, upgrading, opportunities for training and development, rate of compensation, benefits and all other terms and conditions of employment. Further, the Colleges will periodically examine all existing employment policies, practices and facilities to ensure that they do not pose a disparate impact for otherwise qualified persons with disabilities. Where such disparity is found, it will be corrected as quickly and completely as is reasonable under existing circumstances. Accordingly, all College facilities may not be available and accessible at a particular time.

##### **b. In Education**

The Colleges will periodically examine all existing admissions, student support and other student life policies, practices and facilities to assure that they do not pose a disparate impact for otherwise qualified disabled students. Where such disparity is found, it will be corrected as quickly and completely as is reasonable under existing circumstances. Accordingly, all College facilities may not be available and accessible at a particular time. The Colleges will adopt a policy of non-discrimination with respect to admissions, access to programs and facilities and services for all otherwise qualified disabled persons.

##### **c. Reasonable Accommodations**

A “reasonable accommodation” under state and federal law is defined as “modifications or adjustments to an application process, job, work environment, the way in which work is customarily performed, or a course of study that permit a qualified individual with a disability to perform the essential functions of a position or to enjoy the benefits and privileges of employment or education equally with persons without disabilities.”

Reasonable accommodations in employment may include, but are not limited to:

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities;
- Job restructuring;
- Modification of work schedules;
- Providing additional unpaid leave;
- Acquiring or modifying equipment or devices; and
- Providing qualified readers or interpreters.

The Community Colleges are not required to lower performance standards to make an accommodation and are not obligated to provide personal use items, such as eyeglasses or hearing aids.

Reasonable accommodations in education may include, but are not limited to:

- In-class aids, such as note takers;
- Extended time for examination;
- Quiet rooms or alternate locations for testing;
- Alternatively formatted testing; alternatively formatted textbooks and other course materials; and/or
- Access to assistive technology.

Possible course reductions or substitutions on the basis of a disability will be carefully evaluated. Students with disabilities must meet the essential requirements of all academic degree programs.

#### **d. Interactive Process**

State and federal laws define the “interactive process” as an ongoing communication between employer and employee or college and student, in an effort to provide reasonable accommodation for an individual with a known disability. Both parties must engage in the interactive process and communicate directly with each other in order to formulate an effective accommodation plan. Neither party can delay nor interfere with the process.

#### **e. Undue Hardship and Fundamental Alteration**

The Community Colleges are required to make reasonable accommodations to qualified individuals with disabilities unless doing so would impose an undue hardship on the operation of a College’s business or result in a fundamental alteration of a job or academic course or program. Undue hardship means an action that requires significant difficulty or expense when considered in relation to factors such as a College’s size, financial resources, and the nature and structure of its operation. Fundamental alteration is a change that is so significant that it alters the essential nature a job or an academic course or program.

#### **f. Process for Requesting a Reasonable Accommodation**

An employee or job applicant seeking a reasonable accommodation for a disability may contact the College's Office for Human Resources. A student or student applicant seeking a reasonable accommodation for a disability may contact the College's Office that provides disability and accessibility services. All requests for reasonable accommodation are evaluated on a case-by-case basis. Individuals seeking reasonable accommodations should be prepared to submit current medical documentation for review in the accommodation process. The College reserves the right to review approved reasonable accommodations on a periodic basis and request updated medical documentation at that time.

### **V. ACCOMMODATIONS FOR PARENTAL STATUS, PREGNANCY AND PREGNANCY-RELATED CONDITIONS**

In accordance with the requirements of state and federal law, the College prohibits discrimination against students, employees, and applicants based on parental status, pregnancy, childbirth, termination of pregnancy, lactation, related medical conditions, or recovery. Furthermore, the College provides reasonable accommodations for parental status, pregnancy and pregnancy-related conditions, including modifications for students, reasonable break time for employees for lactation, and one or more clean, private lactation spaces, that is not a bathroom, for both students and employees. The Title IX Coordinator coordinates specific actions to ensure equal access to employment, education programs, and activities.

#### **a. Parental Status**

The adoption or implementation of any policy, practice, or procedure concerning the current, potential, or past parental, family, or marital status of a student or applicant that treats persons differently on the basis of sex is a violation of this Policy.

#### **b. Student Accommodations for Pregnancy or Pregnancy-Related Conditions**

Once the Title IX Coordinator is notified of the student's pregnancy or pregnancy-related condition, the College will:

- Inform the student of the College's obligations to students who are pregnant or experiencing a pregnancy-related condition.
- Provide the student with reasonable accommodations as needed to ensure equal access to the College's education program or activity.
- Allow the student a voluntary leave of absence for, at minimum, the medically necessary time period and reinstatement upon return, including reinstatement to the status held by the student when the leave began.
- Ensure the student's access to a clean, private space for lactation that is not a bathroom.

Reasonable modification may include, but are not limited to, the following:



- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom;
- Intermittent absences to attend medical appointments;
- Changes in schedule or course sequence;
- Extensions of time for coursework and rescheduling of tests and examinations;
- Allowing a student to sit or stand, or carry or keep water nearby;
- Counseling;
- Changes in physical space or supplies (for example, access to a larger desk or a footrest);
- Elevator access;
- Or other changes to policies, practices, or procedures.

The College does not require supporting documentation from a student, unless doing so is necessary and reasonable as determined by the Title IX Coordinator.

### **c. Employee Accommodations for Pregnancy or Pregnancy-Related Conditions**

Upon the request from the employee or prospective employee, the College will engage in a timely, good faith, and interactive process to determine an effective, reasonable accommodation to enable the employee to perform the essential functions of the position.

Through the interactive process, the College will provide necessary, reasonable accommodations that will allow an employee to perform the essential functions of the job while pregnant or experiencing pregnancy-related conditions unless doing so would impose an undue hardship on the College. The College recognizes that it cannot make an employee accept a particular accommodation if another reasonable accommodation would allow the employee to perform the essential functions of the job, or require an employee to take a leave if another reasonable accommodation may be provided without undue hardship.

Reasonable accommodations may include, but are not limited to, the following:

- Reasonable break time for lactation;
- Access to a clean and private lactation space;
- More frequent or longer paid or unpaid breaks;
- Time off to attend to a pregnancy-related condition or recover from childbirth with or without pay;
- Acquisition or modification of equipment or seating;
- Temporary transfer to a less strenuous or hazardous position;
- Job restructuring;
- Assistance with manual labor; and/or
- Modified work schedule.

The Title IX Coordinator may require documentation regarding the need for an accommodation from a healthcare professional that explains what accommodation(s) the employee needs, but it cannot require documentation for the following accommodations: (1) more frequent restroom, food, or water breaks; (2) seating; (3) limits on lifting more than 20 pounds; and (4) a clean, private space for lactation.

## **VI. CONTRACTING AND PURCHASING**

When selecting contractors, suppliers, and vendors of goods and services, including goods and services secured in connection with construction projects, the Colleges will offer equal opportunity to all qualified persons and entities and will not discriminate on the basis of a protected classification.

The College shall use reasonable efforts to attract and encourage bid proposals from a diverse pool of qualified contractors, subcontractors, vendors and suppliers. The College is strongly encouraged to identify businesses primarily operated by individuals within the protected classifications with the help of the Commonwealth's Supplier Diversity Office.

When transacting business with contractors, vendors and suppliers, the Community Colleges shall include in all contracts the following statement:

*Non-Discrimination in Employment: The Contractor shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, sexual orientation, gender identity, religion, genetic information, parental leave, military service, marital status, handicap, disability, or for exercising any rights afforded by law. The Contractor commits to purchasing supplies and services from certified minority or women-owned businesses, small businesses or businesses owned by socially or economically disadvantaged persons or persons with disabilities. The Contractor agrees to comply with applicable federal and state laws, rules and regulations prohibiting discrimination in employment and unfair labor practices, including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act of 1990, Massachusetts General Laws, Chapter 151B and all administrative and executive orders, where applicable.*

The Colleges reserve the right to disqualify any contractor, person or entity seeking to provide services to a Community College that fails to adhere to the prohibitions against discrimination in employment that are contained in this section.

**E. IMPLEMENTATION OF AFFIRMATIVE ACTION POLICY**

The implementation of an effective affirmative action policy is ultimately the responsibility of the President of each Community College. The President will direct the Affirmative Action Officer to coordinate the overall development, administration and monitoring of all affirmative action programs, policies, procedures and regulations. The Affirmative Action Officer will report directly to the President, or their designee, and will bear responsibility for the preparation and execution of all affirmative action policies and programs.

Consistent with all collective bargaining and non-unit employee agreements, each supervisor will seek to ensure that affirmative action and equal opportunity are integrally tied to all aspects of any recruitment, hiring, training or advancement related decisions to which they are a party. They will be aware of goals and will consult with the Affirmative Action Officer prior to and in the course of such actions.

## **F. AFFIRMATIVE ACTION OFFICER AND TITLE IX COORDINATOR**

See “Definition” Section of this Policy for Affirmative Action Officer and Title IX Coordinator contact information.

### **a. Affirmative Action Officer**

The Affirmative Action Officer (“AAO”) shall have the task of infusing affirmative action into all aspects of the College. They shall be responsible for the development, administration and evaluation of affirmative action policies, procedures, programs and goals; serve as monitor of local, state and federal laws and regulations relating to affirmative action and equal opportunity and compliance thereof; and administer to all segments of the College - students and employees.

The AAO will analyze the College’s work force composition. The AAO may also analyze specific work areas or divisions within the College to determine if under-utilization of any protected group exists. The development of goals and timetables to correct any identified under-utilization shall be the responsibility of the AAO with input from the appropriate administrative officers. Although the basic responsibility for implementation of the affirmative action/equal opportunity program necessarily rests with the administrative officers of the College, the Affirmative Action Officer is responsible for providing advice and assistance.

The AAO shall be an ex-officio member of the Affirmative Action Committee and shall facilitate this Policy’s Complaint Procedures.

### **b. Title IX Coordinator**

The College shall employ a Title IX Coordinator. The Title IX Coordinator may also serve as the College’s AAO. The College’s Title IX Coordinator has primary responsibility for coordinating the College’s efforts to comply with and carry out its responsibilities under Title IX, the Massachusetts Campus Sexual Violence Law of 2021, and the related policies of the College, which prohibit all Sex-Based Harassment in all College operations, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX or the Massachusetts Campus Sexual Violence Law. The Title IX Coordinator shall be adequately trained to perform their duties, including understanding the legal aspects of Title IX and the Massachusetts Campus Sexual Violence Law, conducting investigations of all Sex-Based Harassment, administering an investigative process that protects the safety of victims and promotes accountability and providing campus-wide training to members of the College community.

The Title IX Coordinator does not have an obligation to respond to any conduct or speech other than that which reasonably may constitute Sex-Based Harassment.

Members of the College community should contact the Title IX Coordinator in order to:

- Seek information or training about students’ and employees’ rights and courses of action available to resolve complaints that involve Sex-Based Harassment;
- File a complaint or make a report of a Sex-Based Harassment;

- Notify the College of an incident that may raise potential concerns related to Sex-Based Harassment;
- Provide information about available resources; and
- Periodically evaluate and review the College's policies and procedures related to Sex-Based Harassment.

The Title IX Coordinator's functions and responsibilities include:

- Monitor the College's education program or activity for barriers to reporting information about conduct that reasonably may constitute Sex-Based Harassment and take steps reasonably calculated to address such barriers;
- Coordinate efforts including the development, implementation, and monitoring of appropriate disclosures, policies, procedures and practices designed to comply with federal and state legislation, regulation, and case law requiring the prompt and equitable resolution of all complaints pursuant to Title IX, the MA Campus Sexual Violence Law, and related College policies;
- Provide leadership, direction and supervision for all activities and personnel related to the role, including consulting with relevant policy-making bodies and senior personnel for the purpose of advising, clarifying and identifying necessary action to eliminate Sex-Based Harassment in all educational programs and activities, to ensure that access to facilities, opportunities, and resources is gender equitable throughout the College;
- Provide ongoing training, consultation, and technical assistance for all students including: students' rights under Title IX, the MA Campus Sexual Violence Law, and related College policies, identifying behaviors that constitute Sex-Based Harassment; how to report Sex-Based Harassment; reporting options; understanding the College's Complaint Procedure and Complaint Processes; the potential consequences for violating College policies; the role of alcohol and/or drug use; amnesty; consent; the importance of seeking prompt medical attention; prohibition against retaliation; and Bystander Intervention training;
- Provide ongoing training, consultation, and technical assistance for all employees in areas including: how to identify and report Sex-Based Harassment; the College's responsibilities to address Sex-Based Harassment; recognizing warning signals; understanding their reporting obligations; information regarding confidential reporting options; information regarding confidential reporting options; and students' rights and remedies; and available student services.
- Develop, implement and coordinate campus and/or school-based strategic efforts aimed at the prevention of sexual assault and other forms of Sex-Based Harassment;
- Develop and disseminate educational materials, including brochures, posters, and web-based materials that inform members of the College community of rights,

responsibilities and resources pursuant to Title IX, the MA Campus Sexual Violence Law, and related College policies, both within and external to the College;

- Oversee prompt, effective, and equitable intake, investigation, processing, and timely resolution of all Sex-Based Harassment matters made known to any employees and/or reported or filed by students, faculty, employees, third parties, or by members of the broader community;
- Offer and coordinate supportive measures as appropriate for both the Complainant and Respondent;
- Notify the Complainant or, if the Complainant is unknown, the individual who reported the conduct and the Respondent of the complaint processes and the informal resolution process if available and appropriate;
- Provide appropriate notice of an investigation; determine the extent of an investigation; oversee investigation efforts; ensure provision of initial remedial actions; assure compliance with timelines; deliver appropriate notice of charge, notice of investigation, notice of outcome, duty to warn, and remedies, and provide a repository for and source of institutional record-keeping;
- Provide guidance and assistance to alleged victims of Prohibited Conduct, including referral to support resources, notice of right to file internal grievances, notice of the right to grieve to the US Department of Education Office for Civil Rights, and notice of the right to report incidents to law enforcement;
- Coordinate the College's notice to all applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions, of the name or title, office address, electronic mail address, and telephone number of their designation as the Title IX Coordinator;
- Organize and maintain grievance files, disposition reports, and other records regarding Title IX compliance, including annual reports of the number and nature of filed complaints and the disposition of said complaints, data collection, climate assessment, pattern monitoring; and
- Serve as principal contact for government inquiries pursuant to Title IX, the Massachusetts Campus Sexual Violence Law, and related College policies.

**G. DISSEMINATION OF POLICY**

The Affirmative Action Policy will be widely distributed and discussed within the College Community. A copy of the Policy will be distributed to every major work area at each College and a copy will be maintained in the Library and the Affirmative Action Office. Copies of the Policy will be made available upon request to any student, employee, applicant for student status or for employment or member of the community. The Policy is available on the College's website and from the College's Affirmative Action Officer upon request. Colleges may implement procedures requiring employees to annually confirm their receipt of this Policy.

In accordance with state and federal requirements, the following notice will be included in all vacancy postings and other appropriate college publications, contracts, solicitations for bids, purchase orders, websites and leases:

*Northern Essex Community College is an affirmative action/equal opportunity employer and does not discriminate on the basis of race, color, national origin, ethnicity, sex, disability, religion, age, veteran status, genetic information, pregnancy or related conditions, gender identity, sex characteristics, sex stereotypes or sexual orientation in its programs and activities as required by Title IX of the Educational Amendments of 1972, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Title VII of the Civil Rights Act of 1964, and other applicable statutes and college policies. The College prohibits Sex-Based Harassment. Inquiries or complaints concerning discrimination, harassment, or retaliation shall be referred to the College's Affirmative Action Officer and/or Title IX Coordinator, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunities Commission or the United States Department of Education's Office for Civil Rights.*

## **H. PLAN OF ACTION**

### **a. Program Purpose and Intent**

The Community Colleges are committed to a policy of equal opportunity and affirmative action. The purpose of this Policy is to establish programmatic objectives that will provide for the access and advancement of qualified minorities, women, and persons with disabilities with respect to both employment and education. The intent of this Policy is to acknowledge and responsibly alleviate the effects of societal discrimination and its impact on the protected group.

### **b. Scope**

Affirmative action and equal opportunity shall be viewed as an integral part of the mission and purpose of each Community College. The Affirmative Action Policy by its very nature shall affect and apply to all aspects of recruitment, employment and education.

The opportunity for education for students in the protected classifications will be an imperative. Affirmative action programs should support not only student admissions to the College but also its programs.

In employment, affirmative action will affect recruitment, terms and conditions of employment, administrative procedures and relevant policies and practices of the College.

### **c. Workforce and Utilization Analysis**

A procedure for implementation of the Policy will be undertaken and it will include opportunities for maximum communication between the responsible parties, i.e., supervisors, the Affirmative Action Officer and the President. A workforce and utilization analysis shall be conducted annually.

### **d. Under-Utilization**

Under-utilization exists when the number of individuals in protected classifications in an occupational category is fewer than would reasonably be expected based upon the availability of qualified persons for employment within a specific geographic area. When under-utilization is identified for appropriate organizational units and occupational categories, goals and timetables are established as a means of increasing the employment of qualified individuals in protected classifications at the earliest possible time. This section shall be applied in a manner consistent with the appropriate collective bargaining agreement, if applicable.

### **e. Goals**

Hiring goals are targets for increasing the employment of qualified individuals in protected classifications in appropriate organizational units and/or occupational categories of the College workforce. Hiring goals are not rigid quotas. They are reasonable estimates of what is attainable and are established separately for individuals in protected classifications.



Program goals include special efforts to remove barriers, to improve awareness or sensitivity, to address problem areas identified within the College Affirmative Action Policy, to bring about conditions that will promote the hiring goals, or to address changes taking place within the institution. General timetables are to be established for the implementation of the goals. The time period shall normally be between two (2) and five (5) years.

**f. Identification of Problem Areas and Remedial Approaches**

At the request of the Commissioner, the President shall submit a report to the Commissioner as referenced in Auditing and Reporting and shall include an analysis of under-utilized areas and possible solutions and may cover such issues as curricular concerns, employment and student recruitment, hiring, retention of employees, resignations, and College activity and program availability. The report will also consider and give an analysis of the established goals and timetables.

**g. Programmatic & Collaborative Efforts**

The Community Colleges have, as a group, committed themselves to a policy of affirmative action/equal opportunity and non-discrimination throughout this Policy. The Colleges realize, however, that the development and implementation of specific programmatic efforts, both individually and collaboratively, will be essential to the establishment of an action oriented program. Rather than rendering affirmative action policies that merely represent a compilation of policies, procedures and prohibited practices solely designed to avoid discrimination, these action-oriented elements ensure that this Policy becomes a pro-active, aggressive tool as opposed to a passive document.

In an effort to fully establish joint collaborative programs that will enhance the implementation of the Community Colleges' Affirmative Action Policy, the Affirmative Action Officers of the fifteen institutions are encouraged to work collaboratively on the following initiatives.

- **Recruitment Directory**

A directory of recruitment resources may be developed for each major category of positions (i.e., academic discipline, administrative area, field of focus) listing the various known sources for contact. This directory will list individuals, departments, institutions, organizations, professional associations and their various caucuses that are known to be good sources of candidates from protected classifications. In addition, the directory will also contain a listing of major publications such as newspapers, journals or other periodicals that print job advertisements and have substantial circulation among individuals in protected classifications and other underrepresented persons or groups. Trade or professional journals for each academic discipline and professional area will also be included.

- **Program of Professional Enrichment for Personnel of Affirmative Action Offices**

The Affirmative Action Officers will meet regularly and jointly participate in workshops, seminars and other kinds of enrichment opportunities that will assist them in the performance of their duties. Insofar as possible, reliance will be placed on the expertise of persons within the public higher education system, local, state and federal agencies, and professional organizations and associations in order to keep costs to a minimum.

- **Educational Seminars**

The Affirmative Action Officers, collectively or individually, may develop seminars to strengthen the understanding and sensitivity of all employees, and in particular senior administrators and supervising managers, to the importance of their respective roles in fostering a workplace free of discrimination, harassment and retaliation. All members of the College community shall be encouraged to attend such programs.

#### **h. Individual Campus Efforts**

Specific programmatic efforts determined by the individual Colleges may take any of several forms: projects, programs, defined strategies, structured activities or other tactical steps that contribute to fulfillment of the Colleges' affirmative action and equal opportunity goals and objectives. Each College may develop specific programs to assist in identifying and overcoming deficiencies, increasing representation of qualified individuals in protected classifications within the work force and the student body and providing increased opportunities for under-represented groups, both in the area of employment and in the area of the student learning environment. Cross-cultural programming, sensitization of all members of the College communities to the rights and needs of all persons, including individuals in protected classifications will play a major part. The involvement of all segments of the College community in both the planning and the implementation of such programming will be an essential factor in its success.

## **I. HIRING GUIDELINES**

Proper hiring guidelines are crucial to the success of attracting and hiring a qualified, diverse workforce. The Human Resources Office shall work in consultation with the Affirmative Action Officer in developing proper hiring guidelines. The hiring process is generally initiated with the development of a recruitment plan, which shall be reviewed by the Affirmative Action Officer before commencing with advertisement. The plan will be reviewed in light of the College's affirmative action goals and will include the use of applicable mailing lists of contacts and resume file, if any, developed and maintained for affirmative action recruiting. Goals will be reviewed at the time of recruitment.

When practicable, the time permitted between the initial public announcement of an available position and the deadline for submission of applications must allow for adequate selective notification of qualified individuals in protected classifications.

For vacancies for positions that are half-time or greater, the Affirmative Action Officer will consult with the hiring manager to determine an appropriate recruitment time frame which will allow sufficient time to recruit under-utilized persons while simultaneously meeting the organization's need to fill the position as soon as possible.

Deans and Vice Presidents are encouraged to plan ahead and schedule all searches so as to allow sufficient time to conduct effective affirmative action searches.

If the recruitment process fails to yield sufficient numbers of qualified candidates from a designated protected group, consideration may be given to reposting the position. This section shall be applied in a manner consistent with the appropriate collective bargaining agreement, if applicable.

The Affirmative Action Officer shall have access to all applications for the purpose of reviewing and certifying the process and the outcome and for the purpose of collecting data to conduct applicant flow studies, etc. Additionally, the Affirmative Action Officer may make recommendations for interviewing affirmative action candidates.

The hiring process will generally include an interview with a search committee, which may include the position's direct supervisor and/or other appropriate persons who have responsibility in the work area. The Affirmative Action Officer will review a committee's recommendation for appointment and sign it to verify compliance with affirmative action procedures. If the Affirmative Action Officer finds that the recruitment and/or selection process does not satisfy affirmative action requirements, they should submit their reservations to the President.

In regard to hiring/promotions, the College will comply with all applicable collective bargaining provisions when making such decisions.

**J. COLLEGE AFFIRMATIVE ACTION COMMITTEE**

An Affirmative Action Committee shall be established consisting of at least seven (7) members representative of faculty, administrators, non-teaching professionals, classified staff and students. The Committee shall include protected classification representation. The members shall be appointed by the President. The Affirmative Action Officer shall be an ex-officio member of the Committee.

The Committee shall act as a policy advisory body to the President in all matters concerning affirmative action, equal opportunity, and diversity. Specific responsibilities of the Committee may include, but are not limited to, the following:

- a. Advise and assist the President and the Affirmative Action Officer in developing, implementing and evaluating the College's Affirmative Action Program;
- b. Recommend changes in the programs or policies;
- c. Represent the concerns of all employment areas of the College as these concerns relate to equal opportunity;
- d. Be informed about the rules and procedures of the College as well as federal and state laws and regulations governing affirmative action and equal opportunity;
- e. Meet as necessary, but not fewer than two (2) times a year; and
- f. Help sensitize and educate the College community regarding the affirmative action issues facing higher education and the larger society and to help broaden understanding of diversity in our society as well as to encourage behaviors appropriate to a pluralistic society.

## **K. AUDITING AND REPORTING**

The Affirmative Action Officer shall be primarily responsible for monitoring compliance and auditing the implementation of the Policy on Affirmative Action, Equal Opportunity and Diversity. The Affirmative Action Officer shall furnish the President with progress reports and shall inform the President of practices or policies that may not be in compliance with the Policy.

The Affirmative Action Officer will annually review the progress being made toward achievement of the College's affirmative action goals. The review shall include strategies and timetables for achieving its affirmative action goals, availability figures, institutional performance or other circumstances that affect the implementation of this Policy's goals. In addition, they will assure that annual compliance reports required by the Board of Higher Education and other state and federal agencies are completed.

To ensure compliance with this Policy, the Affirmative Action Officer will review and evaluate the applicable policies, programs and activities related to job requirements, performance criteria, personnel benefit plans, students support services, facilities and programmatic access, vendor contract submission and services, media advertising and public relations materials, including all College publications. Recruitment and hiring procedures will be monitored using the methods described in this Policy. All monitoring and analyses will be conducted as necessary to identify problem areas and provide recommendations to remedy them.

The Affirmative Action Officer shall conduct periodic audits of the utilization analysis and goals. The purpose of the audit will be to assess progress toward established goals and to apprise other persons responsible for recruitment of the findings. Continuous monitoring is important to the success of the Policy. The findings, while utilized throughout the year, will be reported formally in the annual report. Problem areas and successes will be reported. Additionally, compliance reports requested by other agencies should be included as an internal audit mechanism.

## **L. COMPLAINT PROCEDURES**

### **I. General Information For All Complaints**

#### **a. Application of Policy**

The complaint procedure listed below is intended to provide a mechanism to investigate and where possible resolve complaints of alleged violations of this Policy against employees and students. The procedure is intended to ensure that the College will conduct an impartial, fair, effective, and efficient investigation of all allegations of violations of this Policy without fear of retaliation. The complaint procedure is available to any employee or student, or applicant for employment or admission, or a person other than a student or employee, who believes they have been subjected to Prohibited Conduct as defined under this Policy. A complaint filed in another forum does not preclude an individual from filing a complaint under this Policy. Further, a complaint filed in another forum, including a criminal or civil complaint, shall not delay an investigation of a complaint filed under this Policy.

#### **b. Confidentiality of Process**

The complaint procedure will be conducted as confidentially as reasonably possible to protect the privacy rights of all individuals involved. The College may share information concerning the complaint with parties, advisors, witnesses and/or others during any phase of the procedure on a need-to-know basis and shall share information with union representatives as provided for in M.G.L. c.150E. All individuals with whom information is shared shall be advised of the confidential nature of the information and directed not to discuss the matter with anyone other than an advisor, if applicable.

#### **c. Complainant Requests No Action and/or Confidentiality**

Where a Complainant requests that no action be taken by the College or requests that their identity not be revealed, the College shall take reasonable steps to investigate and respond to the complaint, but shall inform the Complainant that such a request may hamper its ability to fully investigate an alleged violation of this Policy and/or to take appropriate remedial steps, including disciplinary action. Where an allegation of Prohibited Conduct involves the potential of an ongoing threat to the health, safety or security of members of the College community or a potential adverse employment action, the Affirmative Action Officer, or in the case of an allegation of Sex-Based Harassment, the Title IX Coordinator, shall inform the Complainant that it cannot ensure confidentiality and disclosure of their name may likely be required.

#### **d. Off Campus Behavior**

The College will investigate alleged Prohibited Conduct under this Policy which occurs in the College's education program or activity off-campus when such conduct adversely affects the College Community, poses a threat to the College Community; interferes with the College's pursuit of its educational objectives and mission, and/or if a student or employee is charged with a violation of state or federal law.

Conduct that occurs under the College's education program or activity includes but is not limited to locations, events, or circumstances over which the College has substantial control and for which such conduct is subject to the College's disciplinary authority. This also includes conduct that takes place via school-operated electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of the College, including AI technologies; and conduct that occurs during training programs sponsored by the College at another location.

If Sex-Based Harassment is alleged to have occurred outside the College's education program or activity in the United States, but has created a hostile environment that impacts the College's programs, activities or community in the United States, that conduct will be subject to investigation.

#### **e. Supportive Measures**

This Policy requires the College to take non-disciplinary/non-punitive reasonable steps to preserve or restore equal access to its education programs and activities and protect individuals from Prohibited Conduct, including offering supportive measures to a Complainant before the final outcome of an investigation, irrespective of whether complaint processes are initiated. Supportive measures will be offered to a Respondent, as appropriate, if complaint processes have been initiated or an informal resolution process has been offered.

Supportive measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, provide support during the College's complaint process or during the informal resolution process, or deter all forms of Prohibited Conduct. The College shall take these steps promptly once it has notice of an allegation of Prohibited Conduct.

Examples of supportive measures include, but are not limited to, the following:

- Counseling;
- Extensions of deadlines or other course-related adjustments (for example: changing class schedule, withdrawal without penalty, providing student services such as tutoring, alternate class completion options);
- Modifications of work schedules or job assignments;
- Campus escort services;
- Increased security and monitoring of certain areas of the campus;
- Restrictions on contact applied to one or more parties;
- Changes in class, extracurricular, or any other activity, regardless of whether there is or is not a comparable alternative;
- Leaves of absence;
- Training and education programs related to Sex-Based Harassment; and
- Other similar measures.

The specific supportive measures implemented and the process for implementing those measures will vary depending on the facts of each case. The College will consider a number of factors in determining what supportive measures to take, including, for example, the specific needs expressed by each party; the severity or pervasiveness of the allegations; any continuing effects on each party; whether the parties share the same classes, schedules, transportation, or job location; and whether other judicial measures have been taken to protect the victim (*e.g.*, civil or criminal protection orders).

The College provides an opportunity to either party to seek modification or reversal of any decision to provide, deny, modify, or terminate supportive measures applicable to them. Challenges to supportive measures could include, but are not limited to: challenges concerning whether a supportive measure is reasonably burdensome, whether a supportive measure is reasonably available, whether the supportive measure is being imposed for punitive or disciplinary reasons, whether the supportive measure is being imposed without fee or charge, and whether the supportive measure is effective in meeting the purposes for which it is intended. Such challenges must be made, in writing, to an Impartial Employee within ten (10) days and include: (1) the supportive measure being challenged; (2) the reason for the challenge; and (3) the action sought by the party (*e.g.*, to provide, deny, modify, or terminate the supportive measure).

A party may seek modification or termination of a supportive measure applicable to them if circumstances change materially. Whether or not circumstances have changed materially is a fact-based consideration depending on the particular context of the Complainant and Respondent. In general, when taking supportive measures, the College shall minimize the burden on each party. The College must maintain as confidential any supportive measures provided to the parties, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures or restore or preserve a party's access to the education program or activity.

#### **f. Interim Action and Emergency Removal**

The College reserves the right to suspend a student on an interim basis or place an employee on paid administrative leave prior to completing an investigation under this Policy when it reasonably concludes that a student or employee: (a) poses a threat to health or safety; (b) poses a threat to College property or equipment; (c) is disruptive or interferes with the normal operations of the College; or (d) is charged with a violation of state or federal law. In such cases, the College shall provide the employee or student notice of the specific reason(s) for the interim action. During a student's interim suspension or an employee's leave, the College reserves the right to prohibit the individual from entering upon the College's property or participating in any College activities absent written authorization from an appropriate official of the College.

In the case of a Sex-Based Harassment claim, the College must base its decision to institute interim action (*i.e.*, emergency removal) on the following factors: (1) it undertakes an individualized safety and risk analysis, (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sex-Based Harassment justifies removal, and (3) provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. A Respondent subject to emergency removal from the Title



IX Coordinator may appeal the decision per the Appeal procedure below in Step 3 of the Complaint Process.

The College shall make reasonable efforts to minimize disruption in the professional or educational experience of all affected parties. The College, Complainant, and Respondent will take reasonable efforts to preserve all relevant materials to a complaint, including communications (e.g. email and voice) and documents.

#### **g. Joint Investigation**

In some circumstances a Responding Party's conduct may constitute a potential violation of this Policy and/or other conduct policies applicable to employees or students. In such cases, in order to avoid duplicative investigatory efforts, a joint investigation under this Policy may be conducted by the AAO or, in the case of an alleged Sex-Based Harassment, the Title IX Coordinator, and the administrator charged with enforcing conduct policies. For example, if the Responding Party is a student, the Affirmative Action Officer (or Title IX Coordinator if Sex-Based Harassment is alleged) and Student Code of Conduct Administrator may jointly investigate the complaint. Based on the findings of their joint investigation, the student may be subject to disciplinary action for violations of this Policy and/or the Student Code of Conduct. Where the Responding Party is an employee, a joint investigation may be conducted by the Affirmative Action Officer (or Title IX Coordinator if Sex-Based Harassment is alleged), Human Resources and the employee's supervisor. Based on the findings of their joint investigation, the employee may be subject to disciplinary action for violations of this Policy and/or for inappropriate and unprofessional conduct.

#### **h. Collateral Rights of Employees**

Any disciplinary action taken against an employee shall be regarded as an administrative action subject to all terms and conditions of applicable collective bargaining agreements.

#### **i. Anonymous Report**

Any individual may file an anonymous report concerning any Prohibited Conduct referenced under this Policy. An individual may report the incident without disclosing their name, identifying the Respondent or requesting any action. An anonymous report may be filed with the Affirmative Action Officer or, in the case of an allegation of Sex-Based Harassment, the Title IX Coordinator. Non-Confidential Employees may not maintain the anonymity of the reporting party when they receive a complaint and are required to share this information with the Title IX Coordinator. Depending on the level of information available about the incident or the individuals involved, however, the College's ability to respond to an anonymous report appropriately and effectively may be limited (e.g. offering supportive measures to a Complainant of Sex-Based Harassment).

#### **j. Amnesty**

Students may be hesitant to report Sex-Based Harassment out of concern that they, or witnesses, might be charged with violations of the College's drug/alcohol policies. While the College does

not condone such behavior, it places a priority on addressing allegations of Sex-Based Harassment. Accordingly, the College may elect not to pursue discipline against a student who, in good faith, reports, witnesses or possesses personal knowledge of an incident of Sex-Based Harassment.

#### **k. Knowingly Making a False Complaint**

Knowingly making a false complaint under this Policy is a serious offense. If an investigation reveals that Complainant knowingly made a false complaint, the College shall take appropriate actions and issue sanctions pursuant to other applicable College policies, including any applicable collective bargaining agreement. The imposition of such sanctions does not constitute retaliation under this Policy. A report made in good faith, however, is not considered false merely because the evidence does not ultimately support the allegation of Prohibited Conduct.

#### **l. Dismissal of Complaints**

By simultaneous written notice to the parties, the Affirmative Action Officer or Title IX Coordinator *may* dismiss any Complaint with regard to that conduct, if:

- Complainant withdraws the Complaint or any or all of the allegations in writing;
- Respondent is no longer enrolled or employed by the College;
- The College is unable to identify the Responding Party after taking reasonable steps to do so; or
- The conduct alleged would not constitute Prohibited Conduct as defined, even if proven.

After dismissal, the Affirmative Action Officer/Title IX Coordinator will offer appropriate supportive measures to Complainant and to Respondent, if Respondent was notified of the allegations prior to dismissal.

This decision to dismiss the complaint may be appealed consistent with the appeal procedure in Step 3 below.

#### **m. Informal Resolution Procedures**

At any time prior to determining whether the alleged conduct occurred, the College may offer to Complainant and Respondent an informal resolution process. Such an offer will be made to both parties in writing and will include an outline of each party's rights and responsibilities in the informal resolution process. The College has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute Sex-Based Harassment, when a complaint of Sex-Based Harassment is made, or when the alleged conduct would present a future risk of harm to others and may decline to offer informal resolution despite one or more of the parties' wishes.

The College must obtain the parties' voluntary consent to the informal resolution process and does not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment, continued enrollment, employment, continued employment or exercise of any other

right. Before the initiation of the informal resolution process, the College must provide to the parties notice that explains: (1) the allegations; (2) the requirements of the informal resolution process; (3) that, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the College's complaint processes; (4) that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming complaint processes arising from the same allegations; (5) the potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and (6) what information the College will maintain and whether and how the College could disclose such information for use in complaint processes if complaint processes are initiated or resumed.

An informal resolution is achieved through open or closed dialogue between the parties that allows for the airing of any misunderstandings or disputed issues. During the informal resolution process, Respondent may accept responsibility or accountability for the alleged behavior or harm caused. Potential terms in an informal resolution agreement may include but are not limited to:

- Restrictions on contact; and
- Restrictions on the Respondent's participation in one or more of the College's programs or activities or attendance at specific events, including restrictions the College could have imposed as remedies or disciplinary sanctions had the College determined at the conclusion of the complaint processes that the alleged conduct occurred.

If the parties accept the informal resolution, its terms shall be reduced to writing, signed by both parties, and the Affirmative Action Officer or Title IX Coordinator shall retain the document, with copies to the parties; thereafter, the matter shall be considered resolved between the parties. In the case where Respondent is an employee, prior to execution of a resolution, they will be notified that a copy of the informal resolution may be placed in their personnel file. The parties may request from the College that an informal resolution not be placed in Respondent's personnel file; however, the College retains the sole discretion to approve or to deny this request. In cases where such request is denied, each party reserves their right to withdraw from the informal resolution process and resume the complaint process. All other documents related to the informal resolution of a Complaint shall be kept separate from the personnel file. Further, at no time shall a Responding Party question or confront a Complainant, or engage a third party to do so, as such conduct may constitute retaliation, which is strictly prohibited under this Policy.

## **II. Complaint Process**

The following rules apply throughout all phases of the complaint process: (1) all parties to a complaint may have an advisor; (2) the role of an advisor is limited to providing discrete advice and counsel to the party; (3) the filing of a complaint under this Policy shall not preclude a Complainant from pursuing a complaint in a separate legal forum; (4) a grade dispute based on alleged Prohibited Conduct shall proceed under this Policy and not the Grade Appeal Process contained in the Student Grievance process; and (5) all findings reached under this Complaint Procedure must be based on a "preponderance of evidence" (i.e.; more likely than not) standard.

At any point during the complaint process, either party may request mediation by contacting the Affirmative Action Officer or Title IX Officer. The purpose of mediation is to resolve the dispute to the satisfaction of both parties. If mutually agreed upon by the parties, mediation shall be conducted as follows:

- a. Prohibited Conduct (Excluding Sex-Based Harassment)  
The Affirmative Action Officer has the authority to seek to resolve the complaint through mediation (i.e. an administrative remedy), and may serve as the mediator. Where practicable, a mediation session shall be conducted no later than thirty (30) days after agreed to by the parties. The timelines presented under the Complaint Procedure shall be tolled pending the outcome of mediation.
- b. Sex-Based Harassment  
The informal resolution process (i.e. mediation) will not be facilitated by the Title IX Coordinator or decision maker in the College's complaint processes, but by an impartial mediator. The impartial mediator shall inform the parties in writing of the mediation process and schedule. The impartial mediator must have training or experience in mediating matters subject to this complaint process. Where practicable, a mediation session shall be conducted no later than thirty (30) days after agreed to by the parties. The timelines presented under the Complaint Procedure shall be tolled pending the outcome of mediation.

If mediation is successful in resolving the complaint, the mediator shall reduce to writing the terms of the mediated resolution, which shall be signed by the parties. If mediation does not result in a resolution, all mediation discussions shall remain confidential and may not be used or introduced in this process or any other forum.

### **Step 1 – Investigation**

When a Complainant believes that they have been subjected to Prohibited Conduct, the Complainant may make a complaint with the Affirmative Action Officer or Title IX Coordinator.

- a. Prohibited Conduct: The complaint shall contain a statement of all known facts pertaining to the alleged violation and shall be filed preferably on the Discrimination Complaint Form (see Appendix A). Verbal complaints shall be reduced to writing by the Affirmative Action Officer or Title IX Coordinator, and reviewed and signed by the Complainant within ten (10) days. If a student is involved, the Affirmative Action Officer or Title IX Coordinator shall notify the Vice President of Student Affairs or Dean of Student Services. If an employee is involved, the Affirmative Action Officer or Title IX Coordinator shall notify Human Resources.
- b. Evidence: The Affirmative Action Officer or Title IX Coordinator will request that Complainant provide any and all evidence in their possession, custody or control that support the allegations raised in their complaint.

There may be circumstances where a complaint is dismissed prior to a Respondent being notified as outlined in Section L(I)(l) of this Policy.

The Affirmative Action Officer or Title IX Coordinator will notify the Responding Party in writing within fourteen (14) days of their determination that the complaint is to be investigated rather than dismissed and provide the Responding Party with a copy thereof (see Appendix B). The timeliness of such notification shall be in accordance with the appropriate collective bargaining agreement, if applicable. The Responding Party shall have ten (10) days from receipt of notice to submit to the Affirmative Action Officer or Title IX Coordinator a written response to the complaint.

Where practicable, within thirty (30) days from the date the Respondent's written response is received, or the date it was due if none was submitted, the Affirmative Action Officer or Title IX Coordinator shall conduct an investigation, review all evidence gathered through the investigation and determine what evidence is impermissible regardless of relevance, and provide each party with a written description of the evidence that is relevant to the allegations of Prohibited Conduct and not otherwise impermissible.

After determinations are made on the evidence to date, the Affirmative Action Officer or Title IX Coordinator will schedule recorded meetings with the parties and witnesses (if applicable). The parties are permitted one advisor of their choice, who may but is not required to be, an attorney (for union employees this may be a union representative), who may be present in any meeting or proceeding prescribed by this Policy, and who may inspect and review evidence. The advisor's role is strictly limited to providing direct assistance to the party that they advise for the purposes of the complaint processes.

The Affirmative Action Officer or Title IX Coordinator will:

- a. Provide to a party and their advisor, whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time to prepare to participate;
- b. Allow each party to propose questions for the Affirmative Action Officer or Title IX Coordinator to ask during individual meetings with the other party and witness(es); and
- c. Provide an audio or video recording or transcript of the individual meetings with the other party and witness(es) with a reasonable time as determined by the investigator for the party to propose additional follow up questions. In no event shall follow up questions be submitted more than ten (10) days after receipt of the audio or video recording or transcript.

When questioning parties and witnesses, the Affirmative Action Officer or Title IX Coordinator:

- a. Will determine when a proposed question is relevant and not otherwise impermissible and, if a question is excluded, explain why;
- b. Will prohibit questions that are unclear or harassing of the party being questioned, though the party will be given an opportunity to revise such questions;
- c. May impose other equally applicable rules regarding decorum; and
- d. May choose to place less or no weight on statements made by parties or witnesses who refuse to respond to questions. However, in a Sex-Based Harassment

complaint, they will not draw any inferences about whether sex-based harassment occurred based on a refusal to respond to questions.

After questioning of the parties and witnesses has concluded, the Affirmative Action Officer or Title IX Coordinator shall issue a Report of Preliminary Findings which shall specify the investigation undertaken, including a written description of the evidence, and summarize their preliminary findings. There are no recommendations at this stage as the findings are not final. The preliminary report shall be delivered to the parties in hand, by certified mail or at their College-issued email address (if applicable). Upon request, each party will have an equal opportunity to access the evidence. If the investigation is not completed within thirty (30) days, status updates shall be provided to the parties every thirty (30) days until it is completed. Any request by a party to extend a deadline established under this procedure shall be presented in writing to the Affirmative Action Officer or Title IX Coordinator.

Thereafter, the parties will have ten (10) days from the date of their receipt of the Report of Preliminary Findings to submit Rebuttal Statements to the Affirmative Action Officer or Title IX Coordinator. The parties may present no new allegations at that time. Where practicable, within ten (10) days of receiving the parties' Rebuttal Statements, the Affirmative Action Officer or Title IX Coordinator shall review the Rebuttal Statements and prepare and submit a Report of Final Findings and Recommendations to the Designated Decision-Maker for consideration.

### **Step 2 – Review and Decision by the Designated Decision-Maker**

Where practicable, within ten (10) days of receipt of the Report of Final Findings and Recommendations, the Designated Decision-Maker shall issue a written decision to the parties. The written decision shall accept, reject or modify the Report of Final Findings and Recommendations. The Designated Decision-Maker's written decision shall be delivered in hand, by certified mail or at their College-issued email address (if applicable), and shall include the Report of Final Findings and Recommendations. If the President is the Responding Party, then the Chair of the College's Board of Trustees shall designate a Board member(s) as Designated Decision-Maker to administer Step 2 of the Complaint Process.

If there is a determination that a violation occurred, as appropriate, the Designated Decision-Maker shall require the Affirmative Action Officer or Title IX Coordinator to coordinate the provision and implementation of remedies to Complainant and other persons identified as having had equal access to the College's education program, activity or workplace limited or denied, coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to Complainant of any such disciplinary sanctions, and require the Affirmative Action Officer or Title IX Coordinator to take other appropriate prompt and effective steps to ensure that discrimination does not continue or recur within the College's education program, activity or workplace.

### **Step 3 – Appeal to President**

A party may file an appeal with the President within ten (10) days of receiving the designated decision maker's decision. A party may appeal for the following reasons only:

- a. Procedural irregularity that would change the outcome;
- b. New evidence that would change the outcome and that was not reasonably available when the determination of whether a violation occurred or dismissal was made; and/or
- c. The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

Where practicable, within ten (10) days of receiving the appeal, the President shall issue a written decision accepting, rejecting or modifying the designated decision maker's decision. The President's decision is final provided that any corrective action and/or discipline imposed are subject to applicable collective bargaining agreements.

If the President is the Responding Party, then the Chair of the College's Board of Trustees shall consider the appeal and issue the written decision.

**APPENDIX A - DISCRIMINATION COMPLAINT FORM**

**DISCRIMINATION COMPLAINT FORM**

The purpose of this form is to record information required to initiate an investigation into an alleged violation of the College’s Policy on Affirmative Action (PAA). All reasonable efforts will be made to maintain the confidentiality of the parties involved during the complaint procedure in accordance with the PAA.

Retaliation against a student, employee or any other person in the College for filing a complaint or for cooperating in an investigation of a complaint is strictly prohibited. All parties to a complaint may have an advisor (for union employees this may be a union representative) assist them throughout the process.

Date Filed: \_\_\_\_\_ Date(s) of Alleged Discrimination: \_\_\_\_\_

A. Name (Print): \_\_\_\_\_

B. Check One: Student: \_\_\_\_\_ Employee: \_\_\_\_\_ Other: \_\_\_\_\_

Program/Department: \_\_\_\_\_

C. Type of Prohibited Conduct (please check applicable category(ies)):

- Discrimination
- Retaliation
- Discriminatory Harassment
- Sex-Based Harassment

D. Type of alleged discrimination or harassment (please check applicable category(ies)):

**Protected Classes:**

- Race/Color
- National Origin
- Age
- Disability
- Genetic Information
- Religion/Creed
- Veteran Status

**Sex-Based Harassment:**

- Pregnancy or Related Conditions
- Sex
- Gender Identity
- Sexual Orientation
- Sex Characteristics
- Sex Stereotypes
- Other Sex-Based Claim ( *quid pro quo* harassment,  hostile environment harassment,  sexual assault,  dating violence,  domestic violence,  stalking)

Other: \_\_\_\_\_

\*Please see the PAA for definitions of above terms



E. Name of individual(s) you believe discriminated against you: \_\_\_\_\_

F. List any witnesses: \_\_\_\_\_

G. Description of Complaint - please list the sequence of events, including dates, if possible, and any relevant facts and statements to support your complaint of discrimination:

(If additional writing space is needed, please attach additional sheets) **To the best of my knowledge and belief, the above information is complete, true and accurate and not a “false complaint” as defined under this Policy. I hereby submit this complaint under the College’s Complaint Procedure.**

\_\_\_\_\_  
Signature of Complainant and Date

Received by (College Official’s name/title): \_\_\_\_\_

Date Received: \_\_\_\_\_

Date of Dismissal (Screen Out)/No Dismissal (Screen In) Determination: \_\_\_\_\_

**APPENDIX B - NOTICE TO RESPONDENT**

*College Letterhead*

**To:** \_\_\_\_\_, Responding Party  
**Cc:** \_\_\_\_\_, Complainant  
**From:** \_\_\_\_\_, (*Title of College Official*)  
**Subject:** Discrimination Complaint  
**Date:** \_\_\_\_\_

This is to notify you that on \_\_\_\_\_ a complaint alleging a violation of the College’s Policy on Affirmative Action (PAA) was filed against you. A copy of the complaint is attached, as is a copy of the complaint procedure. You have ten (10) days from your receipt of this notice, to submit to me a written response to the complaint.

The Policy on Affirmative Action prohibits knowingly making false statements or knowingly submitting false information during the complaint procedure.

You will be contacted to schedule an appointment to discuss this matter. Retaliation against a student, employee or any other person for filing a complaint or for cooperating in an investigation related thereto is strictly prohibited.

Please note that you may have an advisor of your choice, and that the advisor may, but is not required to be, an attorney or union representative (if applicable).

Please be advised that you are presumed not responsible for the alleged conduct until a determination is made at the conclusion of this process, and that prior to any determination, you and your advisor will have an opportunity to present relevant and not otherwise impermissible evidence. You and your advisor are also entitled to any investigative reports and a description of the evidence. Upon request, you and your advisor will have an opportunity to access the relevant and not otherwise impermissible evidence.

All reasonable efforts will be made to maintain confidentiality during the complaint procedure in accordance with the Policy on Affirmative Action. Further, if any disciplinary sanctions are imposed as a result of an investigation under this Policy, all such sanctions shall be regarded as an administrative action subject to all terms and conditions of applicable collective bargaining agreements (if applicable).

All questions concerning this matter should be addressed to the College official referenced above.