

ANTI-DISCRIMINATION POLICY  
AND GRIEVANCE PROCEDURE  
FOR EMPLOYEE<sup>1</sup> CLAIMS OF DISCRIMINATION  
BY ANOTHER EMPLOYEE,  
GUEST OR CONTRACTOR

I  
INTRODUCTION

As an institution of higher learning, Suffolk County Community College is dedicated to providing an environment conducive to intellectual and personal growth. Members of the college community are encouraged to participate in all aspects of academic life. For the college, this means a firm institutional commitment to academic freedom as well as a commitment to the highest standards of professional and interpersonal behavior and respect among members of the community.

II  
ANTI-DISCRIMINATION POLICY

The College will not tolerate discrimination on the basis of race, national origin, color, religion, sex, age, sexual orientation, disability, marital status, military status, domestic violence victim

## A. Discrimination Prohibited

The college abides by the principle that its students, faculty, staff, administrators and trustees have a right to be free from discrimination by any member of the college community. The highest standards of professional conduct pertain to all members of the college community in their dealings with one another; the relationships between and among students, faculty, administrators, trustees and members of the staff at all levels should be governed by these standards. No member of the college community should tolerate discrimination against an administrator, faculty member, employee, colleague, supervisor, student or other member of the college community.

Behavior on the part of any member of the college community that inappropriately introduces any form of discrimination as defined below, into a teaching, learning or working relationship, or into any other relationship arising from college activities will not be tolerated. The college also will not tolerate conduct by a non-employee who discriminates against any member of the college community on college premises or at any other location where the member of the college community is present because of assigned or college-related activities.

Individuals who believe they are victims of discrimination are required to seek redress through the appropriate discrimination complaint procedure. This policy and procedure applies to any employee who alleges that he or she has been discriminated against by another employee, guest or contractor. Alleged discrimination of a student by another student or alleged discrimination against a college faculty member, guest, administrator or employee by a student is governed by the Sor... ppl(of)3( a)4(ahe)4( S) i-5p.088 Tw22(l(es46(n)-88.l(y)20( )-(co(e)4( vi)]TJ)4(ppon 4)3 w F

environment. The definition of discrimination, discussed more fully below, will be interpreted and applied consistent with applicable legal standards.

Under federal and state law it is illegal to discriminate in any aspect of employment, including the following: hiring and firing, compensation, assignment or classification of employees, transfer, promotion, layoff or recall, job advertisements, recruitment, testing use of company facilities, training and apprenticeship programs, fringe benefits, pay, retirement plans, and disability leave, or other terms and conditions of employment.

Discriminatory practices also include the following

1. harassment on the basis of race, color, religion, sex, national origin, disability, sexual orientation or age;
2. retaliation against an individual for filing a charge of discrimination, participating in an investigation, layoff, or other action.

An employer is required to make a reasonable accommodation unless doing so would impose an undue hardship, i.e., one that requires significant difficulty or expense.

In determining whether harassment based on race, national origin, color, religion, sex, age sexual orientation or disability has created an intimidating, hostile or offensive environment or substantially interferes with an individual's academic or work performance, the college recognizes that unless the conduct is egregious, a single or isolated incidents of offensive conduct or remarks may not create an intimidating, hostile or offensive environment.

### C. Confidentiality

1. Generally: It is the policy of the college to protect the confidentiality of members of the college community who may be involved in discrimination complaint procedures, insofar as that is reasonably practicable. Specifically, the identity of the individual making the complaint (complainant), the identity of the accused (respondent) and information regarding the discrimination complaint will be disseminated only to those individuals who have a legitimate need to know, or as reasonably necessary for the purpose of investigating or resolving the complaint. Any person who is the custodian of confidential information shall maintain a log of the dissemination and review of such information.

Complainants should understand that upon their advising the Office of the Compliance Officer or the Office of Human Resources of a discrimination complaint, the college is legally required to investigate that complaint. Therefore, complainants should understand that the complaint may be disclosed, as necessary, to persons on a "need to know" basis.

Although the college will endeavor to maintain the confidentiality of discrimination complaints and proceedings in accordance with this policy, it cannot absolutely guarantee against the further dissemination of information by individuals to whom such information was reasonably disclosed in the course of a discrimination investigation. All complaints will be fully investigated and the appropriate remedial action will be taken against individuals found to have violated the college's anti-discrimination policy.

Any information acquired during the investigation will be kept in a confidential file in the Office of the Compliance Office and retained by the college for at least the statutorily required period.

2. Waiver of Confidentiality: A complainant or a respondent may be deemed to have waived, directly or indirectly, the confidentiality provisions of this policy by voluntarily disclosing information about the complaint or the complaint proceedings to parties within or outside the college community who are not directly involved in the investigation or complaint process. For instance, if a complainant or a respondent makes any public statement tending to impute negligence, misconduct, unfairness or incompetence to the college in conducting a discrimination investigation or complaint proceeding, the college shall have the right to disclose information that is reasonably required to rebut or refute the allegations.

## D. Retaliation

No individual shall be retaliated against in any way by a member of the college community for his or her participation in this complaint procedure. No complainant or witness shall be retaliated against in any way by a member of the college community for his or her nonparticipation in this complaint procedure. Every effort should be made to protect members of the college community so that they may use or participate in the discrimination complaint procedure without fear of reprisal or retaliatory action. Threats, other forms of intimidation, and retaliation against the complainant or any other individual implementing or using the college's discrimination complaint procedure are violations of this policy and, thus, may be grounds for disciplinary action.

If an employee is found to have made a malicious or false statement, he or she may be subject to disciplinary action under the applicable collective bargaining agreement. If a student is found to have made a malicious or false statement, he or she may be referred to the Student Disciplinary Committee Board for appropriate action. No punishment will occur if a complaint is made in good faith. Individuals who believe they have been retaliated against in violation of this policy must follow the complaint procedures outlined herein and such complaints will be processed in accordance with these procedures.

## III

### DISCRIMINATION COMPLAINT PROCEDURE

#### A. Informal Stage: Reasonable Cause Determination

##### 1. Whom to Contact

Employees who believe that they have been subjected to discrimination should contact the Office of the Compliance Officer or the Office of Human Resources. The Compliance Officer and the Administrative Director of Human Resources (Administrative Director) are the designated officials responsible for the investigation of discrimination complaints made by employees, for determining if an informal resolution is possible and if it is not possible, for determining if there is sufficient cause for an investigatory hearing to be held to determine whether discrimination has taken place.<sup>2</sup>

The Compliance Officer and the Administrative Director shall notify each other that a complaint has been made. In addition, as documents are received or created by the Compliance Officer during the course of the investigation, copies shall be kept in the Office of the Compliance Officer where they shall be maintained in a confidential file.

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<sup>2</sup> If the President, a vice president, a trustee, the Compliance Officer or the Administrative Director is accused of discrimination, the Anti-Discrimination Committee shall select an individual who is affiliated with the College to conduct an investigation. The investigation will be conducted in the manner set forth in this policy.

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#### 4. Investigation and Sufficient Cause Determination

If the complaint is not informally resolved, the Compliance Officer or Administrative Director will have fourteen (14) days after the conclusion of the five day informal resolution period to complete an investigation of the allegations. If not previously provided, the complainant and the respondent shall receive copies of the written answer and written complaint, respectively. The investigation shall include, but not be limited to, review of the complaint and the answer, interviews of witnesses, examination of pertinent personnel files and employment records and review of any other written statements, documents or other evidence. The complainant, the respondent and all potential witnesses are encouraged to cooperate with the discrimination investigation. If the complainant or the respondent refuses to do so, the Compliance Officer or Administrative Director will have to come to a determination on the basis of available information.

Once the Compliance Officer or Administrative Director completes the investigation, he or she will determine whether, based on a preponderance of the evidence, there is sufficient cause for an investigatory hearing to be held to determine whether discrimination has taken place. The complainant and the respondent shall be promptly notified in writing (either personally delivered or sent certified mail, return receipt requested) of the determination. If some other form of misconduct is uncovered, the complainant will be notified that the complaint has been forwarded to the proper authority.

If sufficient cause is found, then the Compliance Officer or Administrative Director will forward the file to the Anti-Discrimination Committee for an investigatory hearing. If the

B. Formal Stage: Investigatory Hearing

1. Anti-Discrimination Committee Membership

The Anti-Discrimination Committee is comprised of seven members: one (1) member each of the tenured faculty elected for three (3) years by governing bodies of the Eastern, Grant and Ammerman campuses; two (2) members selected by the A.M.E. unit at the College for three (3) years, one (1) from the white collar unit and one (1) from the blue collar unit; one (1) individual selected by the President for one (1) year who will be the Chair, either the Compliance Officer or the Administrative Director of Human Resources (whoever did not conduct the investigation). College legal counsel shall be an advisory member of the Committee.

a. Recusal

Any Anti-Discrimination Committee member shall be recused if he or she is a party in the complaint, an immediate supervisor of the complainant or the respondent or a witness to the allegations in the complaint. Committee members may also be recused for other reasons, including but not limited to, personal, business or financial conflicts of interest between the committee member and either the complainant or the respondent. The Compliance Officer will determine whether a conflict of interest exists. The

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transcript of the proceedings shall be held in the Office of Compliance Office. The complainant and the respondent may review the transcript in that office.

The hearing shall include, to the extent possible, the following:

- Examination of the complainant, the respondent and any witnesses who may be of assistance in resolving the complaint; and
- Review of any documents and other information submitted by the parties or witnesses; and
- Review of any other documents or information the committee deems relevant.

The hearing shall be closed and may only be attended by the complainant (and his or her advisor), the respondent (and his or her advisor), the committee members, College legal counsel, testifying witnesses and personnel necessary for the administration of the hearing. The parties and their advisors have the right to be present throughout the hearing. Testifying witnesses may only be present for their own testimony. A testifying witness may have one advisor present during their testimony. This advisor must follow the same policies as the advisors for the complainant and the respondent noted above.

The committee shall not be bound by technical rules of evidence, but may consider any relevant material and reliable evidence that it finds probative. The committee shall determine the admissibility, relevance and weight of the evidence before it.

The committee is to investigate discrimination complaints and is expressly authorized to investigate, consider and report findings regarding other misconduct related to the alleged discrimination that may be revealed during the course of the discrimination investigation. If the committee finds misconduct that does not constitute discrimination, the committee shall notify the complainant that the committee has forwarded the complaint to the proper forum.

### 3. Review by the Executive Dean or Designee

Within five (5) days after the conclusion of the investigatory hearing, the committee will forward a copy of its written findings to the Executive Dean of the campus where the respondent is employed or designee and to the Office of Compliance Office. Where it shall be maintained in a confidential file. If applicable, the findings should include any recommended remedial action (which can include disciplinary action) to be taken. The

