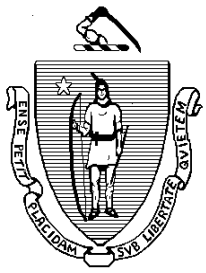

The Commonwealth of Massachusetts

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 14, 2020

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

The Commonwealth of Massachusetts' Community Colleges' Policy on Affirmative Action, Equal Opportunity & Diversity has been approved for implementation by the Colleges and the Board of Higher Education, effective August 14, 2020.

This Policy shall replace the previous Policy, which was approved by the Board of Higher Education and implemented on October 11, 2013, as amended in September 2014 and December 2014. 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.

Carlos E. Santiago
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, maternity leave, military service and national origin ("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 Dis9V1f(y)22 (mE)1 (R)-2.9 (R).06 T2meR0.9

discriminating unlawfully 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

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 _____ and can be contacted at _____.

ADVISOR: A single person of the Complainant's/Respondent's choice, who may be 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. It is the advisor's responsibility to conduct cross-examination during the hearing if the Title IX Sexual Harassment Process is being used. The advisor's role is otherwise strictly limited to providing direct assistance to the party that they advise.

AFFIRMATIVE ACTION OFFICER ("AAO"): A College employee assigned the responsibility of administering the College's Affirmative Action Policy. 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 _____ and can be contacted at _____.

COMPLAINT: A written or verbal complaint alleging a violation of the Affirmative Action Policy, other than a Formal Complaint.

COMPLAINT PROCESS: The process used to address all Complaint's alleging a violation of the Affirmative Action Policy, other than a Formal Complaint of Title IX Sexual Harassment.

COMPLAINANT: The student(s) or employee(s), or applicant for admission or employment, filing the complaint. In cases involving Title IX, this is an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

CONFIDENTIAL REPORTING RESOURCES:
Persons who have experienced prohibited forms of sexual harassment under this Affirmative Action Policy may share information confidentially with designated employees ("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.

[College's] complaint procedures, [including an investigation of] the allegation of Title IX Sexual Hnvebmlg002(.02 [ngg ti]TJcn of

e. Singling out, treating or causing to treat persons of one protected class differently from others because of assumptions about or stereotypes of the intellectual ability, interest, or aptitudes of persons of those aforementioned groups.
f. Limiting access to housing, or participation in athletic, social, cultural or other activities to students because of membership in a protected class not based on a bona fide requirement or distinction.
g. Failing or refusing to hire or promote a person because of their age.
h. Classifying a position or positions as unsuitable for persons of certain religions.
i. Forcing employees or students to participate or not participate in a religious activity as a condition of their employment or education.
j. Excluding members of a certain race or national origin from a category of positions or from a department or division.
k. Restricting the number of Vietnam era veterans or qualified persons with disabilities in a category of positions or in a department or division.
l. Using information on marital or parental status for employment decisions where the use of such information has a disparate impact on persons of one gender or sexual orientation.
m. Advising students of similar interests and backgrounds differently because of their gender or gender identity.
n. Diverting a discussion of a student's or employee's work toward a discussion of his or her physical attributes or appearances.
o. Forcing female students to sit in the back of the class on the stereotyped assumption that each of them has a lower aptitude for learning that particular subject than male students.
p. Placing unreasonable expectations upon students of particular races or national origins on the basis of stereotyped assumptions that members of those protected classes have a better aptitude for certain academic subjects than students not of those races or national origins.

2. <u>Discriminatory Harassment</u>: Discriminatory harassment. A form of unlawful discrimination including verbal and/or physical conduct based on legally protected characteristics and/or 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.

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. Simple teasing, offhand comments and isolated incidents (unless extremely serious) will not amount to hostile environment harassment under this Policy.

Examples of behavior that may constitute discriminatory harassment include, but are not limited to:

a. Physically harassing another individual (or group of individuals) because of that person's or persons' membership in a protected class by assaulting, touching, patting, pinching, grabbing, staring, leering at them, making lewd gestures, invading their personal space, blocking their normal movement, or other physical interference.
b. Encouraging others to physically or verbally abuse an individual (or group of individuals) because of that person or persons' membership in a protected class.
c. Threatening to harm an individual (or group of individuals) because of that person or persons' membership in a protected class.
d. Directing epithets or slurs at an individual (or group of individuals) because of that person or persons' membership in a protected class.
e. Displaying hostile, derogatory and/or intimidating symbols/objects to an individual (or group of individuals) because of that person or persons' membership in a protected class.

3. **Gender-Based Harassment**: Unwelcome conduct of a nonsexual nature based on a student's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes, where:

a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; and/or
b. submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual; and/or
c. such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating, hostile, or offensive employment, educational, or living environment based on gender.

4. **Retaliation**: Taking adverse employment or educational action against a person who files claims, complaints or charges under these procedures, 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.

Examples of behavior that may constitute retaliation, include, but are not limited to:

a. Terminating an employee for expressing an intention to file or for filing a charge of discrimination.
b. Refusing to hire an employee due to the employee's pursuit of a discrimination charge against a former employer.
c. Denying a promotion to an employee for complaining to anyone about alleged discrimination or harassment.
d. Refusing tenure to a faculty member for filing a complaint of discrimination or harassment pursuant to the Discrimination Complaint Procedures.
e. Issuing an unjustified negative evaluation to an employee for testifying in a legal proceeding concerning a complaint of discrimination, harassment or retaliation.
f. Assigning a student an unearned, poor grade for requesting a reasonable course accommodation based on religion.
g. Assigning a student an unearned, failing grade for cooperating with an internal investigation of alleged discriminatory practices or a complaint of discrimination or harassment.
h. Refusing to admit a student for requesting a reasonable accommodation based on disability in the admission process.
i. Refusing to hire a job applicant for requesting a reasonable accommodation based on disability in the application process.

Members of the academic community should not assume that any of the forms of speech described above are protected by the principles of academic freedom or the First Amen4 (o-2 ( )-1)1 (tigpn)-10v044 Tw 0.2th98 Tw T* U (ha)3(t6t omictC6 (h)-4 (min)2 [(in)2 tumel-4

under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is pro

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

trustees, administrators, department chairs, program coordinators, campus police, club/activity advisors, coaches, managers or supervisors.

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 his/her designee may extend the time limits in extenuating circumstances with notice to both parties in writing, or by mutual written agreement between the Complainant and the Responding Party.

TITLE IX SEXUAL HARASSMENT

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 employme,timidyme t13 14 ( )]TJ 0.

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, Gender-Based Harassment, Sexual 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.

- **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, 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 elderly and disabled abuse or neglect is suspected. For more information on these reporting requirements please contact the College's Affirmative Action Officer.

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

III. TITLE IX SEXUAL HARASSMENT POLICY

a. Introduction

It is the goal of the Community Colleges to promote an educational environment and workplace

All employees and students should take special note that, as stated above, retaliation against an individual who has complained about Title IX Sexual Harassment, or retaliation against individuals who have cooperated with an investigation of Title IX Sexual Harassment is unlawful and will not be tolerated by the Community Colleges.

c. Complaints of Title IX Sexual Harassment

All Formal Complaints of Title IX Sexual Harassment shall proceed under this Policy's Title IX Sexual Harassment Complaint Process. To file a complaint a person may do so by contacting the College's Title IX Coordinator, or designee. A report of an allegation of sexual harassment may also be presented to other "Responsible Employees" at the College. These persons are also

- **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 sexual harassment, discrimination or retaliation. Therefore, such workplace relationships are strongly discouraged.

g. Identification

Personal identifiable information about parties of sexual violence 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 sexual violence 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, an individual may request that no directory information maintained by the College be released absent his/her prior, written consent.

h. Supportive Measures

Title IX 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 any Title IX Sexual Harassment or other Prohibited Conduct, including offering supportive measures before the final outcome of an investigation, irrespective of whether the complainant ever chooses to file a Formal Complaint. Such measures

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 hall 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

l. Rape Crisis Center Contact Information

The following is a list of Rape Crisis Centers in Massachusetts. As the following contact information may be subject to change, current contact information on rape crisis centers in Massachusetts can be found at the Commonwealth's Executive Office of Health and Human Services' Website under "Consumer" information at http://www.mass.gov/eohhs/.

Greater Boston Area
Boston Area Rape Crisis Center, Cambridge, 617-492-7273 Hotline, 617-492-6434 TTY

Northeastern Massachusetts
North Shore Rape Crisis Center, Beverly, 800-922-8772 Hotline, 978-921-8729 TTY
Rape Crisis Services of Greater Lowell, 800-542-5212 Hotline, 978-452-8723 TTY
YWCA of Greater Lawrence, 877-509-9922 SA Hotline, 978-686-8840 TTY

Central Massachusetts
Rape Crisis Center of Central Mass., Worcester, 800-870-5905 Hotline, 508-852-7600 TTY
Rape Crisis Center of Central Mass., Fitchburg, 800-870-5905
Wayside Victim Services, Milford, 800-511-5070 Hotline, 508-478-4205 TTY
Voices Against Violence, Framingham, 800-593-1125 Hotline, 508-626-8686 TTY

Southeastern Massachusetts
A Safe Place, Nantucket, 508-228-2111 Hotline, 508-228-0561 TTY
Independence House, Hyannis, 800-439-6507 Hotline, 508-778-6782 TTY

m. State and Federal Remedies

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with the governmental agencies set forth below. Filing a complaint under this Policy does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC - 300 days; MCAD - 300 days).

United States Equal Employment Opportunity Commission ("EEOC")
One Congress Street
10th Floor Boston, MA 02114
(617) 565-3200.

The Office For Civil Rights ("OCR")
U.S. Department of Education
John W. McCormack Post
Office and Courthouse, Room 222
Boston, MA Taae3 0 Td[C (on, M.95)Tj EMC /P <</MCID 16 >>BDC -8.22 -1M.95 d [(B)7 (os1

- 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.

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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 his/her 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. He/she 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.

- periodically evaluate and review the College's policies and procedures related to sex discrimination, not limited to Title IX Sexual Harassment.

The Title IX Coordinator's functions and responsibilities include:

known to responsible employees and/or reported or filed by students, faculty, employees, third parties, or by members of the broader community;

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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

Program goals include special efforts to remove barriers, to improve awareness or sensitivity, to

- **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 fese n Offi.1TD5 (mh.)4

L. COMPLAINT PROCEDURES

I. General Information For All Complaints

a. Application of Policy

Both below-listed complaint procedures are

circumstances over which the College exercised substantial control over both the Respondent and the context in which the conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the College.

College; or (d) is charged with a serious violation of state or federal law. In such cases, the College shall provide the employee or student 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 Title IX Sexual 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 Title IX Sexual 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 4 of the Title IX Sexual Harassment 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 Title IX Sexual 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 a Title IX Sexual Harassment is alleged) and Student Code of Conduct Officer 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 a Title IX Sexual Harassment is alleged) 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 or Title IX Sexual Harassment referenced under this Policy. An individual may report the incident without disclosing his/her 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 Title IX Sexual Harassment, 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 may be limited (e.g. offering supportive measures to a Complainant of Title IX Sexual Harassment).

j. Amnesty

Students may be hesitant to report sexual violence 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 sexual violence. 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 sexual violence.

k. False Charges

Filing a false charge under this Policy is a serious offense. If an investigation reveals that a complainant knowingly filed false charges, 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. Informal Resolution Procedures

Where appropriate, the parties to a dispute and/or the Affirmative Action Officer or Title IX Coordinator may attempt to reach an informal and prompt resolution of the matter. Informal resolution is encouraged and any of the parties involved may request the intervention of the Affirmative Action Officer/Title IX Coordinator to assist in resolving the matter informally. An informal resolution is achieved through open or closed dialogue between the parties that allows for the airing of any misunderstandings or disputed issues. The informal procedure shall not be used in an effort to resolve student allegations of any type of sexual harassment/violence asserted against an employee, or in cases involving sexual harassment/violence unless a Formal Complaint is filed. If the parties accept the informal resolution, its terms shall be reduced to writing, signed by both parties, and the Affirmative Action Officer/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 the 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 the 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 intimidation and/or retaliation, which are strictly prohibited under this Policy.

II. Complaint Process

The following rules apply throughout all phases of the complaint process, (except where there is a Formal Complaint of Title IX Sexual Harassment): (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 Procedure; and (5) all findings reached under Complaint Procedure must be based on a "preponderance of evidence" (i.e.; more likely than not) standard.

At any point during the complaint procedure, either party may request mediation by contacting the Affirmative Action Officer. The purpose of mediation is to resolve the dispute to the satisfaction of both parties. Mediation shall be mutually agreed upon by the parties. The Affirmative Action Officer, or designee, shall select an impartial mediator, who shall be mutually agreed upon and not unreasonably refused by either party, and inform the parties in writing of the mediation process and schedule. The 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

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III. Title IX Sexual Harassment Complaint Process

Where practicable, within fifteen (15) days from the date the Respondent's written response is received, or the date it was due if none was submitted, the Title IX Coordinator shall conduct an investigation and issue all evidence

b. Each party's advisor will be given the opportunity to question the other party and any witnesses by presenting questions to the Decision Maker (including questions on credibility). If the Decision Maker determines a question is relevant, the other party will be asked to respond.
c. The Decision Maker shall have a final opportunity to question the parties.
d. The Decision Maker will conclude the hearing by informing the parties that they will issue a decision to the parties and their advisors within ten (10) days, and that it will be based upon a Preponderance of the Evidence standard (i.e.; more likely than not).

Hearing Policy

Questions and evidence about a Complainant's prior sexual behavior will be deemed irrelevant unless offered to prove that someone other than the Respondent committed the alleged misconduct or offered to prove consent.

If a party does not have an advisor present at the live hearing, the College will choose a trained member of the community, to conduct cross examination on behalf of that party. All advisors are limited to active participation in the question and follow-up cross-examination part of the live hearing. Further, Advisors are the only parties allowed to present questions (cross-examination or otherwise) to the Decision Maker.

Generally, live hearings may be conducted with all parties physically present in the same geographic location. At the request of either party, the College must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Decision Maker and parties to simultaneously see and hear the party or the witness answering questions.

Only relevant questions or cross-examination questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain to the party's Advisor asking cross-examination questions any decision to exclude a question as not relevant. If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

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APPENDIX A - AFFIRMATIVE ACTION DISCRIMINATION COMPLAINT FORM

AFFIRMATIVE ACTION 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 Affirmative Action Policy. All reasonable efforts will be made to maintain the confidentiality of the parties involved during the complaint procedure in accordance with the Affirmative Action Policy.

AFFIRMATIVE ACTION DISCRIMINATION COMPLAINT FORM – PAGE 2

F. Description of Complaint - please list the sequence of events, including dates, if possible, and any relevant facts and statements:

(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 charge" as defined under this Policy. I hereby submit this complaint under the College's Affirmative Action Complaint Procedure.**

_____

Signature of Complainant & Date

Received by (College Official's name/title): _____

Date Received: _____

APPENDIX B - NOTICE TO RESPONDENT

College Letterhead

TITLE IX SEXUAL HARASSMENT COMPLAINT FORM – PAGE 2

F. Description of Complaint - please list the sequence of events, including dates, if possible, and any relevant facts and statements:

(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 charge" as defined under this Policy. I hereby submit this complaint under the College's Affirmative Action Complaint Procedure.

Signature of Complainant & Date

Received by (College Official's name/title): _____

Date Received: _____

APPENDIX D - NOTICE TO RESPONDENT (RE FORMAL COMPLAINT)

College Letterhead

To: _____, Responding Party

From: _____, (Title of College Official)

Subject: Title IX Sexual Harassment Formal Complaint

Date: _____

This is to notify you that on _____ a complaint alleging a violation of the College's Policy on Affirmative Action was filed against you with the College. A copy of the Formal Complaint is attached, as is a copy of the Title IX Sexual Harassment Complaint process. Within five (5) days of your receipt of this notice, please submit to me a written response to this Formal Complaint.

I will be contacting you to schedule an appointment to discuss this matter. Please be advised that it is unlawful to retaliate against a student, employee or any other person for filing a complaint or for cooperating in an investigation related thereto.

All reasonable efforts will be made to maintain confidentiality during this process 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.

All questions concerning this matter should be addressed to the College official referenced above. Further, all parties to a complaint may have an advisor (for union employees this may be a union representative)