

DISCRIMINATION COMPLAINT PROCEDURES

A. INTRODUCTION

It is the policy of Westfield State College to provide each student, employee, and other person having dealings with the College an atmosphere free from discrimination, discriminatory harassment and retaliation. The College prohibits discrimination, discriminatory harassment and retaliation based on race, color, creed, religion, national origin, gender, age, disability, sexual orientation, gender identity, marital status, genetic information or veteran status. The College has promulgated these procedures to address and resolve complaints of prohibited discrimination, discriminatory harassment and retaliation as expeditiously as possible and within the requirements of state and federal law.

A person who believes that he or she has been discriminated against, discriminatorily harassed, or retaliated against for filing a complaint of discrimination, participating in an investigation of such a complaint or protesting a discriminatory practice as outlined above in Section VI, may file a complaint under this procedure, or may file a charge directly with the state or federal agency having jurisdiction over discrimination complaints. Information and assistance on any of these options is available from the Equal Opportunity Office.

A person or office charged with discrimination, discriminatory harassment or retaliation, or a person who has knowledge about incidents surrounding allegations, must respond promptly and completely to all requests for information that are initiated by professional staff members in the Equal Opportunity Office or other office designated by the College to investigate complaints under this procedure, the Senior Area Administrator, or the President. Such response may include, but not be limited to, submission of a position statement, an explanation of the rationale for the alleged actions, appropriate documents, and/or participation in an interview of persons having knowledge pertaining to the claim/complaint.

(Please note: This is the procedure developed for use by all of the State Colleges. Individual Colleges may effect changes that are necessary to properly reflect the organizational structure of each campus. No such changes shall be inconsistent with the procedures described herein.)

B. APPLICATION

The following complaint procedure may be utilized by any person, including any College employee, student, or applicant for employment or admission, who believes that he or she has been discriminated against, discriminatorily harassed or retaliated against by the College, by an employee or student of the College, or by other persons having dealings with the College, on the basis of race, color, creed, religion, national origin, gender, age, disability, sexual orientation, gender identity, genetic information, or marital or veteran status, as defined in Section VI of this Plan.

These complaint procedures may be used to address alleged discriminatory acts or acts of discriminatory harassment or retaliation that violate the policies and regulatory procedures set forth by the BHE, the Boards of Trustees of the State Colleges, or 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

C. INITIATING THE COMPLAINT PROCEDURE

1. Time Limits

This procedure is designed to promote the speedy investigation and resolution of complaints. The various steps of these procedures contain time limits that are measured in “working days.” For purposes of these procedures, the definition of the term “working days” shall be days when the administrative offices of the College are regularly open for business. Holidays, weekends, snow days and other days when the College is closed for any other reasons will not be counted. In making a determination concerning the extension of time limits under these procedures, the Director of Equal Opportunity or other officer charged with the investigation of complaints under these procedures, the Senior Area Administrator and/or the President will apply a standard of reasonableness, having regard, when appropriate, to academic recesses and semester breaks.

2. Acceptance of Complaints

Neither the receipt of a complaint nor the written acknowledgment of receipt by the designated office of the College will be deemed to be an admission of any violation of law or policy by any of the named parties or by the institution.

D. COMPLAINT PROCEDURES

1. Informal Complaints

a. Preliminary Steps

Prior to the filing of a complaint, an individual may seek advice, counsel, investigation and informal resolution by the Director of Equal Opportunity or other designated officer.

A person wishing to explore the possibility of resolving a complaint informally or mediating a complaint should request a meeting with the Director of Equal Opportunity or other designated office within a reasonable time. Because it is beneficial to all parties to resolve complaints promptly, they should ordinarily be brought to the attention of the designated officer within thirty (30) days following the occurrence of the events that are thought to constitute discrimination, discriminatory harassment and/or retaliation. In individual cases, circumstances may make that difficult or impractical. Whenever a claim has been initiated more than thirty (30) days following the occurrence of such events, the Director of Equal Opportunity or other designated officer will determine whether the claim has been initiated within a reasonable time.

Whenever a complaint of discrimination is brought to the attention of the Director of Equal Opportunity or other designated officer, he or she will provide assistance in:

- a. explaining the avenues of recourse that are available;
- b. providing information about the applicable federal and state laws and regulations;

mutually agreeable settlement or resolution, the complainant has the option of pursuing a formal complaint in accordance with the procedures set forth as follows.

2. Formal Complaints

The Formal Complaint Process is provided to allow employees, students and persons having dealings with the institution an avenue to address complaints of discrimination, discriminatory harassment and retaliation as defined by this Policy. The three steps are provided to allow for adequate appeal rights of the parties. Resolution of a complaint, however, is possible at any step of the procedure through the written agreement of the parties and with the approval of the Director of Equal Opportunity or other designated officer at the institution.

If the Director of Equal Opportunity or other designated officer, the Senior Area Administrator or the President believes that he or she is unable to make an objective judgment when a complaint filed under these procedures comes before him/her, then he or she will so advise the parties and the other two institutional officers and will appoint a designee to serve as a replacement.

a. Step I: Designated Office

The complainant shall file a Discrimination Complaint Form, accompanied by any pertinent supporting documentation, with the Director of Equal Opportunity or other designated office. The complaint must contain, as essential elements, the signature of the complainant, the date signed, the prohibited basis on which the complaint is filed, and the alleged act(s) of discrimination, discriminatory harassment and/or retaliation. The names of any witnesses and any appropriate documents should be attached to the complaint form. A complaint form can be found at the end of these Procedures.

A complaint shall normally be filed within forty (40) working days from the date upon which the complainant had knowledge or should have had knowledge of the alleged act(s) of discrimination, discriminatory harassment or retaliation, or twenty (20) days following the completion of the informal mediation process, if utilized. Where, however, the act complained of is one of a continuing nature, has a continuing effect, or, in the judgment of the designated person warrants proceeding, the time limit may be reasonably extended.

The Director of Equal Opportunity or other designated officer will promptly consider the complaint and will, within thirty (30) working days of the filing thereof:

- (1) Determine whether the complaint has been filed in accordance with the provisions of these procedures;
- (2) Determine whether the complaint alleges discrimination or discriminatory harassment on the basis of race, color, creed, religion, national origin, gender, sexual orientation, gender identity, age, disability, veteran status, marital status, or genetic information or alleges retaliation;

If a finding of violation has been made, and if a remedy has been requested or recommended which must be effected by the Senior Area Administrator or the President, the designated officer will issue a Statement of Resolution and a Recommendation to Effect Remedy to the parties, the Senior Area Administrator and the President.

b. Step II – Senior Area Administrator

Unless otherwise determined by the President, the Senior Area Administrator responsible for hearing appeals at Step II is the person who has overall responsibility for the supervision of the individual accused in the complaint and who reports to the President. If the accused's supervisor is the President, the President will appoint a designee to serve in her/his stead. In some cases, the Senior Area Administrator may choose to appoint another high level administrator to serve as designee. For complaints arising between students in both the Day College and the Divisions of Graduate Education and Continuing Education and Special Programs, the President will designate the person/persons to serve as the Senior Area Administrator to hear appeals under Step II of these procedures.

The Senior Area Administrator or designee will promptly consider the complaint and will, within fifteen (15) working days of the receipt of the Step I record and the appeal:

- (1) Determine whether the complaint and the Step II appeal have been filed in accordance with the provisions of these procedures.
- (2) Take the steps necessary to review the record and the appeal, investigate the complaint further if deemed necessary, make a preliminary determination on the matter and informally discuss it with both parties.
- (3) Offer the non-prevailing party the opportunity for a hearing. Such hearing must be requested within ten (10) days of the offer. If the party requests such hearing, the parties will be accorded the following:
 - (a) The right to receive written charges in advance of the expected response.
 - (b) The right to have a representative present to serve in an advisory role.
 - (c) The right to have a response heard and considered.
 - (d) The right to present documentary and testimonial evidence.
 - (e) The right to question the opposing party and persons giving testimonial evidence.
 - (f) The right to rebut documentary and testimonial evidence.

- (2) Take the steps necessary to review the record of the two preceding steps and the appeal.
- (3) At his/her discretion, remand the case to the Senior Area Administrator or the Director of Equal Opportunity or other designated Step I officer for the purpose of further investigation or hearing.
- (4) Make a final determination on the complaint of discrimination and take whatever action he or she deems appropriate to the situation. A Notice of Final Resolution will be issued by the President to the parties, the Senior Area Administrator and the Director of Equal Opportunity or other designated Step I officer.

If the President determines that more than ten (10) days are necessary, he or she will notify the parties of the anticipated completion date.

The President will be the final adjudicator under these procedures. Her/his decision will be binding with full recognition that, at any time, the complainant has the right to file charges with appropriate local, state and/or federal agencies.

4. Application Of Time Limits

In the event that a complaint has not been resolved within fifty-five (55) days following its filing at any step, either party may elect to have the matter considered at the next step of these procedures.

E. COMPLAINTS AGAINST INSTITUTIONAL OFFICERS

If a complaint is directed against a Senior Area Administrator or the Director of Equal Opportunity or other designated Step I officer, the functions assigned to that person by these procedures will transfer to the President or her/his designee. Complaints directed against the President will be filed with the Chairperson of the Board of Trustees and will follow the Grievance Procedures with Respect to Presidents established by the Board of Regents, as contained in the Report of the Task Force on Complaint/Grievance Procedures dated September, 1987.

F. RETALIATORY ACTION PROHIBITED

The College prohibits retaliatory action taken against persons who file claims, complaints or charges under these procedures, or under applicable local, state or federal statute, who are suspected of having filed such claims, complaints or charges, who have assisted or participated in an investigation or resolution of such claims, complaints or charges, or who have protested practices alleged to be violative of the non-discrimination policy of the College, the BHE, or local, state or federal regulation or statute. Such retaliation is recognizable under these procedures as well as under state and federal law. Retaliation, even in the absence of provable discrimination in the original complaint or charge, constitutes a violation as serious as proved discrimination under the original claim, complaint or charge. Any person who believes he or she

DISCRIMINATION COMPLAINT FORM

Name: _____

Address: _____

Phone Number: _____

E-mail Address: _____

Person against whom the allegation is made: _____

Basis of alleged discrimination and/or harassment (circle one or more as appropriate):
race, color, creed, religion, national origin, gender, age, disability, sexual orientation,
gender identity, genetic information, marital status, , or veteran status.

Basis of alleged retaliation (e.g., filing of an earlier complaint).

Please describe below the alleged discriminatory, discriminatorily harassing and/or retaliatory acts (attach additional pages, as well as list of witnesses and any appropriate documents as necessary):

I affirm that the above complaint with attached ____ pages is true to the best of my knowledge, information and belief. I understand that a copy of this document may be disclosed to the person(s) against whom this complaint is made, to his or her representatives and to appropriate administrative personnel.

I understand that, depending on the nature of my complaint, I may have the right to file this complaint with the Massachusetts Commission Against Discrimination, the U.S. Equal Employment Opportunity Commission, or the Office for Civil Rights at the U.S. Department of Education. I acknowledge that I have been advised of the appropriate agency and the necessary time frames to file any such complaint.

Signature of Complainant

Date