

## Policy Prohibiting Sexual Harassment

### SECTION I

Legal Authority: Sexual harassment is prohibited by Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 and the New Jersey Law Against Discrimination.

### SECTION II

Policy Statement: The County College of Morris reaffirms its desire to create an academic/work environment for all students, faculty and staff, that is not only responsible, but supportive and conducive to the achievement of educational/career goals on the basis of such relevant factors as ability and performance. Students and College personnel are required to maintain an environment which allows all students and all College employees to enjoy the full benefits of their learning experience or work. The use of implicit or explicit coercive sexual behavior to control, influence or affect the performance or status of an individual is prohibited.

### SECTION III

Definitions: Sexual harassment is defined as unwelcome advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or status in a course, program or activity; or
- b. Submission to or rejection of such conduct is used as a basis for employment or educational decisions affecting an individual; or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance, or of creating an intimidating, hostile, or offensive working/learning environment.

### SECTION IV

Examples of Sexual Harassment:

Sexual harassment may include, but is not limited to, the following examples of conduct:

- (a) sexual propositions;
- (b) use of authority to coerce or induce sexual favors;
- (c) sexual innuendo;
- (d) sexually suggestive comments;
- (e) sexually oriented "kidding" or "teasing," practical jokes or jokes about gender-specific traits;.

*September 19, 1984*

*Revised November 19, 1997*

*Revised November 16, 2005*

*Revised August 19, 2009*

- (f) sexually explicit language or gestures;
- (g) display of sexually suggestive or explicit printed or visual material which is not an integral part of an authorized course of study or authorized art exhibit;
- (h) sexually suggestive physical contact with another person's body, such as patting, pinching or brushing against, that is unwelcome and intentional.

## **Section V**

Reporting Sexual Harassment: The College has established a procedure to be followed in reporting and investigating complaints of sexual harassment. Any member of the College community who believes he or she has been subject to conduct that violates this policy should follow the "Procedures for Reporting and Investigating a Sexual Harassment Complaint." Copies of this procedure are available from the office of the Vice President of Human Resources & Labor Relations, any academic dean, or the campus counseling service for the student population. A summary of the procedures is incorporated in the "Student Activities Calendar/Handbook." Copies of the procedure are also available on the CCM website.

## **Section VI**

Confidentiality: The confidentiality of all parties involved in a sexual harassment charge shall be protected insofar as it does not interfere with the College's legal obligation to investigate allegations of misconduct when brought to the College's attention, and the ability of the College to take corrective action consistent with rights of due process.

## **Section VII**

Prohibition Against Retaliation: Retaliation in any form against any person who complains of sexual harassment or who assists in the investigation of such complaints is expressly prohibited. A charge of retaliation may be raised at any step of the complaint procedure or may form the basis of a new complaint. Retaliation may be the basis for discipline even though the complaint of sexual harassment has been dismissed.

## **Section VIII**

False Charges: Complaints of sexual harassment cannot always be substantiated. Lack of corroborating evidence should not discourage complainants from seeking relief through the appropriate College procedures. However, persons found to have made intentionally dishonest charges or to have acted without regard for truth will be subject to disciplinary action.

## **Section IX**

Subordinate Relationships: Romantic and sexual relationships between professional staff and students and between supervisors and those they supervise pose significant risks of sexual harassment charges. The powers professional staff exercise in evaluating students' work, awarding grades, providing recommendations, granting and denying privileges,

*September 19, 1984*

*Revised November 19, 1997*

*Revised November 16, 2005*

*Revised August 19, 2009*

providing counseling, providing financial assistance and imposing discipline constrain a student's actual freedom to choose whether to enter into or to end a romantic or sexual relationship with professional staff. An employee, likewise, may not feel fully free to reject or end a romantic or sexual relationship with his or her supervisor. The existence of such power differentials creates a presumption against a consensual relationship and therefore a heightened risk of being found guilty of sexual harassment. In internal proceedings, the College will be unsympathetic to a defense based on consent when the facts establish that the accused had the power to affect the complainant's academic or employment status or future prospects.

## **Section X**

Responsibilities: All members of the College community are responsible for ensuring that their conduct does not violate this policy. This same responsibility extends to employees of third parties doing business with the College or on College premises and to campus visitors.

College administrators and supervisors have the further responsibility of preventing and eliminating sexual harassment within the areas they oversee. If administrators or supervisors know sexual harassment is occurring, receive a complaint of sexual harassment, or obtain other information indicating possible sexual harassment, they must report the matter immediately to the Dean of Student Development where a student is involved, or the Vice President or Associate Director of Human Resources & Labor Relations where other campus personnel are involved, even if (1) the person subjected to harassment indicates that he or she does not intend to file a complaint or (2) the problem or alleged problem is not within their area of oversight.

Professional staff must be familiar with the College's "Procedures for Reporting and Investigating a Sexual Harassment Complaint" so that they can direct individuals with inquiries or complaints to the appropriate college administrator or supervisor.

## **Section XI**

Yearly Reports: The Vice President of Human Resources & Labor Relations and the Vice President of Student Development and Enrollment Management, jointly, shall provide a yearly report to the Office of the President including findings and conclusions drawn from a review of documents pertaining to sexual harassment complaints on a campus-wide basis. Consistent with Section VI (Confidentiality), the yearly report shall not contain the names of any parties involved in complaints filed pursuant to the College's "Procedures for Reporting and Investigating a Sexual Harassment Complaint."

## **Section XII**

Education and Training: In order to assist campus personnel in identifying inappropriate behavior, appropriately handling complaints, and implementing remedial actions, if necessary, the Department of Human Resources will design and implement a program of

*September 19, 1984*

*Revised November 19, 1997*

*Revised November 16, 2005*

*Revised August 19, 2009*

education directed at identifying and preventing sexual harassment. Training will be conducted on a regular basis to ensure that supervisors and professional staff are familiar with this Policy and the College's "Procedures for Reporting and Investigating a Sexual Harassment Complaint."

### **Section XIII**

Enforcement: Any student, faculty member, staff or administrative employee determined to have engaged in conduct that violates this policy will be subject to appropriate disciplinary sanctions.

**County College of Morris**  
**Procedures for Reporting and Investigating**  
**A Sexual Harassment Complaint**

**I. Information and Assistance Regarding Sexual Harassment:**

- A. College Representatives: Any person who believes that he/she was subjected to sexual harassment, as defined in the “Policy Prohibiting Sexual Harassment,” is encouraged to contact one of the following individuals for information or assistance:
1. Students: Students may contact any academic dean, the Dean of Student Development, whose office is in the Student Center, Room 118 or the Coordinator of Health Services, whose office is in Cohen Hall, Room CH 266.
  2. Other College Personnel: All other college personnel may contact either the Vice President of Human Resources and Labor Relations or the Associate Director of Human Resources, both of whom have offices in Henderson Hall, Room 106. If the alleged offender is either of these individuals, the person seeking information or assistance may contact the President of the College who will identify a substitute official from whom information and assistance may be obtained.
- B. Confidentiality: The College has an affirmative obligation to eliminate sexual harassment on campus. While the College will make every reasonable effort to honor a request for confidentiality or anonymity of the person reporting sexual harassment, the College is required to investigate and take remedial action in any situation where there is a reasonable basis for believing that sexual harassment has occurred or is occurring.
- C. Confidential Counseling: Community-based private counselors, Employee Assistance counselors and members of the clergy have a higher level of legally protected confidentiality than representatives of the College who have direct responsibility for identifying, investigating and eradicating sexual harassment. The confidentiality afforded to students by a County College of Morris counselor for the student population (hereafter referred to as a “campus counselor”) is limited by the counselor’s institutional responsibility to assure the safety and well being of other students and members of the College community as described in the “Statement of Confidentiality” provided to students who consult campus counselors. Anyone wishing to speak privately about sexual harassment before reporting an incident to the College may contact a private counselor or member of the clergy. Referrals to such counseling are available as follows:
1. Students: Any student wishing to speak privately about sexual harassment may consult a campus counselor for referral to community-based private

*September 19, 1984*

*Revised November 19, 1997*

*Revised November 16, 2005*

*Revised August 19, 2009*

counseling services. In addition to providing referrals to private counseling services, the campus counselor shall provide the student with a copy of both the College's "Policy Prohibiting Sexual Harassment" and these Procedures.

2. Employees: Any employee wishing to speak privately about sexual harassment may do so through the Employee Assistance Program by contacting Barnabas Health at 1-800-300-0628 and identifying himself or herself as an employee of the College. The Employee Assistance Counselor, in addition to any other services, shall provide the employee with a copy of both the College's "Policy Prohibiting Sexual Harassment" and these Procedures.

Discussions with a private counselor are not a substitute for reporting incidents of sexual harassment to the College. All members of the College community are encouraged to report suspected incidents of sexual harassment to the College so that corrective action can be taken where warranted.

## II. Reporting Sexual Harassment Complaints

- A. College Officials: A person who decides to lodge a complaint alleging a violation of the College's "Policy Against Sexual Harassment" (called a complainant) must contact one of the following College Officials:

### Students:

Dean of Student Development  
(973) 328-5140  
Student Community Center, Room 118

Coordinator of Health Services  
(973) 328-5160  
Cohen Hall, Room CH 266

### Other Campus Personnel:

Vice President of Human Resources & Labor Relations  
(973) 328-5037  
Henderson Hall, Suite 106

Associate Director of Human Resources  
(973) 328-5041  
Henderson Hall, Suite 106

- B. Substitute College Officials: If the alleged offender (called a respondent) is any of the College Officials identified above, the person wishing to lodge a complaint

may contact the President of the College who will designate a substitute College Official to review the matter.

- C. Form and Handling of Complaint: Complaints may be received orally or in writing. Complaints may be resolved through mediation or disciplinary action as appropriate to the facts in each case..
- D. Prompt Reporting: Members of the College community are encouraged to report all incidents of sexual harassment promptly. Delay in the reporting of such incidents makes investigation of the incident more difficult and impairs the ability of the College to take action on a complaint of sexual harassment.

### III. Investigation of Complaints

#### A. Assigning Complaints

1. Complaints Against Students: Complaints alleging that a student violated the College “Policy Against Sexual Harassment”, whether filed by an employee, a student, or a third party on campus, shall be handled by the Dean of Student Development or the Coordinator of Health Services who shall be responsible for appointing an investigator.
2. Complaints Against Employees or Third Parties: Complaints alleging that an employee or third party on campus violated the College “Policy Against Sexual Harassment”, whether filed by an employee, a student, or a third party on campus, shall be handled by the Office of Human Resources which shall be responsible for appointing an investigator.

B. Investigator: Each complaint will be investigated by an investigator, who may be one of the College Officials from the Office of Human Resources, the Dean of Student Development or the Coordinator of Health Services identified above, or, at the discretion of the President, the College may assign the investigation to another College employee or a trained third-party mediator who is not an employee of the College.

C. Scope of Investigation: The investigator assigned to a complaint shall notify the respondent that a complaint has been filed against him or her and inform the respondent of the nature of the complaint. If a written complaint has been filed, the investigator shall provide a copy of the complaint to the respondent and the respondent will be afforded fourteen (14) calendar days in which to provide a signed, written response to the accusations. A copy of the respondent’s response, if any, will be provided to the complainant. Investigation of all complaints shall include interviews of the complainant, the respondent, witnesses and other persons who can corroborate the alleged incidents. The investigator is authorized to contact any and all College personnel who may have information relevant to

*September 19, 1984*

*Revised November 19, 1997*

*Revised November 16, 2005*

*Revised August 19, 2009*

the complaint. The investigator will have access to relevant records, including personnel and other confidential records.

- D. Time for Completion of Investigations: All investigations shall be conducted expeditiously and normally shall be completed within twenty (20) weekdays after receipt of the complaint, except where the complainant agrees that a longer period of time would be appropriate. Weekends, holidays, and days when the College has scheduled a recess shall not be counted.

#### IV. Resolution of Complaints

- A. Determination and Resolution: The investigator shall be responsible for determining whether a violation of the Policy Prohibiting Sexual Harassment has occurred. If the investigator determines that there is insufficient evidence to support a claim of sexual harassment, he or she shall prepare a written report of the investigation so stating, provide copies of the report to both the complainant and the respondent, and mark the file closed.

If the investigator determines that the Policy Prohibiting Sexual Harassment has been violated, he or she shall, as the facts of the case warrant:

1. Attempt to mediate a resolution of the complaint agreeable to both parties. Such resolution, at a minimum, must protect the complainant from further harassment or retaliation. Where the parties agree to a resolution of the complaint, the agreement shall be reduced to writing and signed by both parties; or
2. Prepare a written report of the investigation, including recommended remedial measures and whether discipline is warranted. Copies of the investigator's report shall be provided to the complainant and respondent.

- B. Enforcement of Mediation Agreements and Implementation of Investigator's Recommendations: The investigator's report and recommendations or a copy of any mediation agreement shall be forwarded to the College representative identified below. In the case of a written report and recommendations, the College representative shall review the written report promptly and decide whether to implement the remedial recommendations and what discipline, if any, shall be imposed. Both the respondent and complainant shall be notified in writing of the decision of the College representative. Where a mediation agreement has been signed, the College representative shall be responsible for ensuring that the terms of the agreement are implemented.

1. Student Respondents: Where the respondent is a student, the investigator's report and recommendations or the mediation agreement shall be forwarded to the Vice President of Student Development and Enrollment Management.

*September 19, 1984*

*Revised November 19, 1997*

*Revised November 16, 2005*

*Revised August 19, 2009*



2. Other College Personnel: Where the respondent is not a student, the investigator's report and recommendations or the mediation agreement shall be provided to the Vice President of Human Resources and Labor Relations.
  - a) Faculty Members: Where the respondent is a faculty member, the Vice President of Human Resources and Labor Relations shall forward the investigator's report and recommendations or the mediation agreement to the Vice-President of Academic Affairs for action.
  - b) Non-Faculty Employees: Where the respondent is a non-faculty member employee, the Vice President of Human Resources and Labor Relations shall forward the investigator's report and recommendations or the mediation agreement to the head of the College Division (Academic Affairs, Advancement & Planning, Business & Finance, Student Development, President's Area, Human Resources and Labor Relations) to which the employee is assigned for action.
- C. Continuance of Inquiry After Withdrawal of Complaint: If at any time after a complaint of sexual harassment has been reported to a College Official, the complainant wishes to withdraw the complaint, the investigator shall make inquiries without the complainant's assistance sufficient to ascertain whether there is a reasonable basis for believing that sexual harassment has occurred or is occurring. If the investigator determines that a violation of the Policy Against Sexual Harassment has occurred, he or she will recommend remedial action to the appropriate Division head or supervisor, the Vice President of Student Development and Enrollment Management where a student is involved, or the Office of Academic Affairs where a faculty member is involved. A copy of the investigator's recommendation shall be provided to the respondent.

## V. Appeals

- A. Complainants. A complainant who is dissatisfied with the disposition of the complaint may file a written appeal with the President of the College. The appeal must state the reason(s) for the complainant's dissatisfaction with the decision of the Vice President of Student Development and Enrollment Management, Vice President of Academic Affairs, or College Division head and be signed by the complainant. Appeals must be filed within fourteen (14) calendar days of the complainant's receipt of written notice of the decision being appealed.
- B. Respondents. Respondents may appeal the decision of the Vice President of Student Development and Enrollment Management, the Vice-President of

Academic Affairs or the College Division head under one of the following procedures:

1. Employees in a Bargaining-Unit - A respondent who is covered by one of the bargaining agreements at the College and who is dissatisfied with the disciplinary decision of the Vice President of Student Development Enrollment Management, Vice-President of Academic Affairs, or College Division head may appeal that decision under the appropriate bargaining agreement grievance procedure. The appeal shall conform to all the time limits set forth in the bargaining agreement grievance procedure.
2. All Other Employees and Students - A respondent who is a student, faculty member, or a non-faculty member employee who is not covered by one of the bargaining agreements at the College and who is dissatisfied with the disciplinary decision of the Vice-President of Academic Affairs, the Vice President of Student Development and Enrollment Management or a College Division head may appeal that decision, in writing, to the President of the College. The appeal must state the reason(s) for the respondent's dissatisfaction with the decision and be signed by the respondent. Appeals must be filed within fourteen (14) calendar days of the respondent's receipt of written notice of the decision being appealed.