

## **Non-Discrimination Policy**

### **Procedures for Reporting and Investigating Complaints of Discrimination**

#### **A. Policy Statement**

County College of Morris (“the College”) is committed to maintaining a fair and respectful academic and work environment for all students, faculty and staff. To that end, and in accordance with federal and state law and policy of the Board of Trustees, the County College of Morris (i) prohibits any employee, student or visitor to campus from discriminating against any other member of the College community because of that person’s race, color, religion, gender, sexual orientation, national origin, age, disabled status or status as a disabled veteran or veteran of the Vietnam era; and (ii) requires that recruitment, employment retention and promotion decisions be made without regard for these factors. It is further the policy of the County College of Morris not to discriminate against qualified handicapped persons in admissions or access to, or treatment or employment in its programs and activities as required by Section 504 of the Rehabilitation Act of 1973, nor to discriminate in activities, employment policies or admissions policies and practices as required by Title IX of the 1972 Education Amendments.

#### **B. Prohibited Discriminatory Conduct.**

The College prohibits conduct that discriminates against or harasses an employee, student or visitor to the campus because of an individual’s race, color, religion, gender, sexual orientation, national origin, age, disabled status or status as a disabled veteran or veteran of the Vietnam era.

Discrimination prohibited under this Policy means a decision or action relating to an individual’s employment, academic enrollment or education that is made or taken based upon the individual’s race, color, religion, gender, sexual orientation, national origin, age, disabled status or status as a disabled veteran or veteran of the Vietnam era, and not based upon the individual’s qualifications, employment performance, academic proficiencies or achievement, or upon other non-discriminatory operational or academic standards and requirements of the College.

Discriminatory Harassment Discriminatory harassment is defined as unwelcome verbal or physical conduct which is directed at a person because of their race, color, religion, national origin, gender, sexual orientation, age, veteran status or disability when:

1. Such conduct has the purpose or effect of unreasonably interfering with the individual’s work or educational performance;
2. Such conduct creates or has the intention of creating an intimidating, hostile or offensive working and/or learning environment; or
3. Such conduct unreasonably interferes with one’s ability to participate in or benefit from an educational program or activity.

Note: Allegations of sexual harassment are reviewed and determined under a separate Sexual Harassment Policy which is also administered by the Office of Human Resources and Labor Relations and the Assistant Dean of Student Development. More information can be obtained about the Sexual Harassment Policy by contacting either office.

**C. College Affirmative Action Officer**

Any person who believes he/she was subjected to discrimination in violation of the College's Affirmative Action Policy, Sexual Non-Discrimination Policy or The Americans with Disabilities Act Policy is encouraged to contact the College Affirmative Action and ADA Officer who is the Vice President of Human Resources and Labor Relations, County College of Morris, 214 Center Grove Road, Randolph, New Jersey 07869; 973-328-5037.

**D. Purpose and Scope of Complaint Procedure**

The complaint procedure is intended to provide a fair, prompt and reliable determination about whether the College's non-discrimination policies have been violated. It is available to anyone, who at the time of the alleged incident, was either employed by or enrolled at County College of Morris, or was an applicant for either employment or enrollment at the College.

While in most cases the complainant will be the victim of the alleged discrimination, the College reserves the right to initiate investigative and enforcement proceedings against an employee or student who has violated this policy.

In determining whether an alleged incident constitutes discrimination, the totality of the circumstances will be considered including the nature of the incident as well as the context in which the alleged incidents occurred. If discrimination is found to have occurred, any record of previous discrimination by the accused person will be considered in determining the sanctions or discipline to be imposed.

This procedure is not intended to impair or limit the rights of an individual to pursue a remedy available under state or federal law, or through other internal administratively guaranteed processes such as collective bargaining agreement grievance procedures or the student judiciary system. A complainant may simultaneously file a complaint through one of the internal processes or with an external agency to meet state or federal agency deadlines. If a complainant utilizes another internal dispute resolution procedure or seeks relief from an outside agency, the College reserves the right to determine whether the disposition of the complaint under such other process will or has appropriately responded to the alleged discrimination.

The College is committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching and service. Academic freedom for faculty in the pursuit of teaching, and freedom of expression shall be appropriately considered in investigating and reviewing complaints and reports of discrimination. However, raising issues of academic freedom shall not excuse behavior that constitutes a violation of the law or the College's Non-Discrimination Policy.

This policy is not meant to address differences in opinion regarding valid employment determinations such as salary recommendations, promotion and tenure decisions, performance evaluations, hiring decisions, transfers or reassignments or termination or layoff because of lack of work or position elimination that arise out of legitimate business concerns and criteria. Nor is

this policy intended to address behaviors that do not constitute discrimination or discriminatory harassment as defined in this Policy. Offensive workplace behavior that does not violate this non-discrimination policy should be addressed to the appropriate supervisor or office.

### **E. Retaliation**

Law and College regulations strictly prohibit any retaliation against members of the County College of Morris community who exercise their right to file charges of discrimination. Retaliation in any form is prohibited whether or not the charging party prevails in the original case. Subsequent to, or contemporaneous with the charge, no agent of the College may harass, coerce, intimidate or discriminate against an individual who has filed a complaint or participated in a complaint resolution process. If this happens, a separate complaint may be filed alleging retaliation or intimidation.

### **F. Filing a Complaint**

An individual who chooses to file a discrimination complaint should do so with the Vice President of Human Resources and Labor Relations who has been designated as the College Affirmative Action / ADA Officer named in this Procedure in accordance with the timelines listed below. Complaints may be submitted orally in person or in writing. The Vice President of Human Resources and Labor Relations will advise complainants about the complaint process. When appropriate, the Vice President of Human Resources and Labor Relations may also recommend counseling or other support services that provide assistance to the complainant.

The Vice President of Human Resources and Labor Relations will maintain a record of all complaints received, determinations made and actions taken.

The College reserves the right to investigate and resolve a complaint or report of discrimination regardless of whether the complainant pursues the complaint. In such cases, the respondent shall be informed of the status of the investigation at reasonable times until the College's final disposition of the complaint and will be given the opportunity to respond to the substance of the complaint as otherwise outlined in this policy.

*Timeliness:* Complainants are encouraged to submit a complaint as soon as possible after an alleged incident of discrimination has occurred. However, the College is aware that this is not always possible. Therefore, the College strongly encourages individuals who believe they have been discriminated against to file a complaint to the appropriate office within 120 calendar days following an incident. If the complainant can show good cause to do so, the Vice President of Human Resources and Labor Relations may waive this timeline. This waiver should normally not exceed 180 calendar days from the date of the alleged discrimination.

*Confidentiality:* The College has an affirmative obligation to eliminate discrimination on campus in violation of its policies and federal and state laws. While the College will make every reasonable effort to honor a request for confidentiality or anonymity of the person reporting discrimination, the College is required to investigate and take remedial action in any situation

where there is a reasonable basis to believe that violations of the non-discrimination policies has occurred or is occurring.

***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 discrimination. 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 a campus counselor. Anyone wishing to speak privately about discrimination 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 concerns about possible discrimination may consult a campus counselor for referral to community-based private counseling services. In addition to providing referrals to private counseling services, the campus counselor shall provide the student with a copy of these Procedures.
2. Employees: Any employee wishing to speak privately about concerns of discrimination may do so through the Employee Assistance Program by contacting Barnabas Health One Source at 1-800-300-0628 and identify 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 these Procedures.

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

***Reporting Responsibility:*** All students and employees should report to the Vice President of Human Resources and Labor Relations any discrimination experienced and/or observed that is in violation of the College’s policies. Administrators and supervisors must report incidents of discrimination in a timely manner to the Vice President of Human Resources and Labor Relations.

## **G. Investigation of Complaint**

***Complaints against employees or non-student third parties:*** Complaints alleging that an employee or third party on campus violated the College non-discrimination policies, 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.

***Complaints against students:*** Complaints alleging that a student violated the College discrimination policies, (whether filed by an employee, a student, or a third party on campus) shall be handled by the Assistant Dean of Student Development, who shall be responsible for appointing an investigator.

*Investigator* – Each complaint will be investigated by an investigator, who may be one of the College Officials from the Office of Human Resources or the Assistant Dean of Student Development, or, at the discretion of the President, the College may assign the investigation to a third party who is not an employee of the College.

*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 may have knowledge of the alleged incidents. The investigator is authorized to contact any and all College personnel who may have information relevant to the complaint. The investigator shall have access to all relevant records of the College, except as may otherwise be provided by statute or law.

*Time for completion of investigation* – 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 or where extenuating or unusual circumstances make this timeframe impossible. Weekends, holidays and days when the College has scheduled a recess shall not be counted.

#### **H. Determination and Resolution of Complaint**

The investigator shall be responsible for determining whether a violation of the College non-discrimination policies has occurred. If the investigator determines that there is insufficient evidence to support the allegations, he or she will 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 violations have occurred, he or she, as the facts of the case warrants:

1. May attempt to mediate a resolution of the complaint agreeable to both parties. Such resolution, at a minimum, must protect the complainant from further discrimination 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 the respondent.

#### **I. Enforcement of Mediated Agreements and Implementation of Investigator's Recommendations**

The investigator's report and recommendations or a copy of any mediated agreement shall be forwarded to the College Vice President or Executive Director listed below. Where a mediated agreement has been signed, the College representative shall be responsible for ensuring that the terms of the agreement are implemented. In the case of a written report and recommendations, the College 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 the complainant shall be notified in writing of the decision of the designated College Vice President or Executive Director.

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

*Other College Personnel* – Where the respondent is an employee of the College, the Vice President of Human Resources and Labor Relations shall forward the investigator's report and recommendations or the mediated agreement to the Vice President or Executive Director of the College Division to which the employee is assigned.

## **J. Appeal Procedures**

*Complainant* – A complainant who is dissatisfied with the disposition of the complaint by the designated Vice President or Executive Director may file a written appeal with the President of the College. The appeal must state the reasons(s) for the complainant's dissatisfaction with the decision of the designated Vice President or Executive Director, and the appeal must be signed by the complainant. This appeal must be filed within fourteen (14) calendar days of the complainant's receipt of the decision of the designated Vice President or Executive Director being appealed.

*Respondent* – Respondent may appeal the decision of the designated Vice President or Executive Director under one of the following procedures:

1. A respondent covered by one of the bargaining unit agreements at the College who is dissatisfied with the disciplinary decision of the designated Vice President or Executive Director may appeal the decision under the appropriate bargaining unit agreement grievance procedure.
2. A respondent who is a student, or an employee not covered by one of the bargaining unit agreements at the College, and who is dissatisfied with the disciplinary decision of the designated Vice President or Executive Director, may appeal the decision, in writing, to the President of the College. The appeal must state the reason(s) for the respondent's dissatisfaction with the decision of the designated Vice President or Executive Director and the appeal must be signed by the respondent. Appeals must be filed within (14) calendar days of the respondent's receipt of the decision of the designated Vice President or Executive Director being appealed.