

Policy Prohibiting Discrimination

A. Policy Statement

County College of Morris (“the College”) is committed to maintaining a fair and respectful academic and work environment for students and employees. To that end, and in accordance with federal and state law and policy of the Board of Trustees, the College (i) prohibits discrimination or harassment based upon the following protected characteristics: race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, religion, affectional or sexual orientation, genetic information, pregnancy or breastfeeding, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait, military service in the Armed Forces of the United States, or refusal to provide genetic information (“Protected Characteristics”), (ii) prohibits employment, educational or admissions practices or procedures that treat individuals less favorably based upon any of these Protected Characteristics.

B. Policy Application

Discriminatory conduct prohibited under this Policy applies to conduct of employees, students, visitors, vendors or contractors occurring on the College’s campus, and to all programs and activities sponsored by the College, including those off-campus.

Discrimination prohibited under this Policy includes a decision or action relating to an individual’s employment, academic enrollment, education or participation in the College’s programs and activities that treats an individual less favorably based on a Protected Characteristic referred to above.

Discriminatory Harassment is defined as verbal, physical, visual and communication-based, or other conduct that demeans or shows hostility, or aversion, toward a person because of a Protected Characteristic when such conduct has the purpose or effect of unreasonably interfering with or limiting the individual’s:

- work environment (e.g. hiring, advancement, assignment);
- educational environment (e.g. admission, academic standing, grades, assignments);
- participation in or benefit from a college program or activity.

Examples, not exhaustive, of discriminatory harassment include:

- Calling an individual an unwanted nickname that refers to one or more of the Protected Characteristics, or telling derogatory jokes pertaining to one or more Protected Characteristics;
- Using derogatory references to any of the Protected Characteristics in any communication;
- Displaying or distributing material (including electronic communications) in the workplace that contains derogatory or demeaning language or images pertaining to one or more Protected Characteristics.

Note: Allegations of sexual harassment are addressed under the College's "Policy Prohibiting Sexual Harassment." Copies of the "Policy Prohibiting Sexual Harassment" can be obtained from the offices of Human Resources, and Student Development and Enrollment Management, or accessed on the College website under Board Policies.

C. Purpose and Scope of Complaint Procedure

The complaint procedure is intended to provide a fair and prompt determination about whether the Policy has been violated.

While in most cases the complainant will be the victim of the alleged discrimination or harassment, the College reserves the right to initiate investigative and enforcement proceedings against an individual after receiving credible information that the individual may have violated the Policy.

In determining whether an alleged incident constitutes discrimination or harassment, 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 or harassment is found to have occurred, any record of previous incidents by the respondent 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 and with an external agency to meet state or federal agency deadlines. If a complainant seeks relief from an outside administrative agency or judicial authority, the College reserves the right to defer the internal process if it appears that disposition of the complaint under such outside proceeding will or has appropriately responded to the alleged discrimination or harassment.

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 operational and educational concerns and criteria. Nor is the Policy intended to address behaviors that do not constitute discrimination or discriminatory harassment as defined in the Policy. Offensive workplace behavior or personnel conflicts that do not violate this non-discrimination policy should be addressed to the appropriate supervisor or the Human Resources Office.

D. Retaliation

Retaliation against an individual who alleges to be the victim of discrimination or harassment, or provides information in the course of an investigation into claims of discrimination or harassment prohibited under this Policy, or who testifies in any proceeding under this Policy, or who opposes a discriminatory practice, is prohibited by the Policy. Retaliation in any form is

prohibited whether or not the complainant prevails in the original case. No agent of the College may harass, coerce, intimidate or discriminate against an individual because the individual has filed a complaint or participated in a complaint resolution process under this Policy. If this happens, a separate complaint may be filed alleging retaliation or intimidation. The imposition of misconduct discipline that is not based upon a Protected Characteristic does not constitute harassment or retaliation under this Policy.

E. False Accusations and Information

An individual who knowingly makes a false accusation of prohibited discrimination/harassment or knowingly provides false information in the course of an investigation of a complaint may be subjected to administrative and/or disciplinary action. Complaints made in good faith and based upon credible information, however, even if found to be unsubstantiated, shall not be considered a false accusation.

F. Filing a Complaint

Any person who believes they have been subjected to discrimination or harassment in violation of the Policy is encouraged to contact the College Affirmative Action/Equal Opportunity (AA/EO) 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, or designee.

Complaints may be submitted orally in person or in writing in accordance with the timelines listed below. The AA/EO Officer will advise complainants about the complaint process. When appropriate, the AA/EO Officer may also recommend counseling or other support services to provide assistance to the complainant. The AA/EO Officer 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 or harassment 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 or harassment 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 or harassed to file a complaint to the appropriate office within 90 calendar days following an incident. If the complainant can show good cause to do so, the AA/EO Officer may waive this timeline. This waiver should normally not exceed 120 calendar days from the date of the alleged discrimination or harassment.

Privacy: All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, privacy shall be maintained throughout the investigatory process.

Complainants will be advised that it is usually necessary to discuss the claims with the person(s) against whom the complaint was filed and other persons who may have relevant knowledge or who have a legitimate need to know about the matter. All persons interviewed, including witnesses, shall be directed not to discuss any aspect of the investigation with others in light of the important privacy interest of all concerned. Failure to comply with this directive may result in administrative and/or disciplinary action.

While the College will make every reasonable effort to honor a request for privacy or anonymity of the person reporting discrimination or harassment, 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 Policy has occurred or is occurring. The discharge of these College obligations usually requires disclosure to the accused person of the identity of the person reporting the discrimination or harassment.

Confidential Resources

Community-based private counselors, Employee Assistance Counselors and members of the clergy (“Community-Based Private Counselor”) 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 campus counselor’s institutional responsibility to assure the safety and wellbeing 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 with a Community-Based Private Counselor about discrimination before reporting an incident to the College may contact a Community-Based Private Counselor. Referrals to such counseling are available as follows:

1. Students: Any student wishing to speak privately about concerns about possible discrimination or harassment may consult a campus counselor for referral to Community-Based Private Counseling services. In addition to providing referrals to Community-Based Private Counseling services, the campus counselor shall provide the student with a copy of this Policy.
2. Employees: Any full time employee wishing to speak privately about concerns of discrimination or harassment may do so through the Employee Assistance Program by contacting RWJ Barnabas Health One Source at 1-800-300-0628 and identifying themselves as an employee of the College.

Discussions with a campus counselor or a Community Based Private Counselor are not substitutes for reporting incidents of discrimination or harassment to the College. All members of the College community are encouraged to report suspected incidents of discrimination or harassment to the College so that corrective action can be taken.

Employees who wish to report an observed discrimination or harassment act anonymously may utilize the College’s “Confidential Witness Report Form” located on the College website under Public Safety. The information reported remains confidential except for disclosures necessary to

ensure the safety of the College community. Public Safety will forward the information to the AA/EO Officer for further action.

Reporting Responsibility: All College employees, with the exception of employees designated as Confidential Resources, are required to report to the AA/EO Officer any discrimination or harassment experienced and/or observed. Sexual harassment is to be reported to the Title IX Coordinator as designated in the College's "Policy Prohibiting Sexual Harassment." Criminal activities or health or safety risks are to be immediately reported to local police (911) or CCM Public Safety at 973-328-5550.

G. Investigation of Complaint

Complaints against employees or non-College community member: For complaints alleging that a College employee or non-College community member violated the Policy, the AA/EO Officer shall appoint a trained investigator from the Department of Human Resources or shall appoint an independent outside professional to conduct the investigation. If the respondent is not a College employee or student and the College does not have the authority over the conduct, the College will provide the complainant assistance in contacting local law enforcement and community resources.

Complaints against students: For complaints alleging that a student violated the Policy, (whether filed by an employee, a student, or a third party on campus) the AA/EO Officer shall appoint a trained investigator from the Office of Student Development & Enrollment Management.

Scope of Investigation – The investigator assigned to a complaint shall notify the respondent that a complaint has been filed against them 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) business 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. Both the complainant and respondent have the right to have the presence of one support person present during investigation meetings.

Time for completion of investigation – All investigations shall be conducted expeditiously and normally shall be completed within twenty (20) business days 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. Days when the College has scheduled a recess shall not be counted.

H. Interim Measures

If appropriate, the College may impose interim measures prior to or during the investigation and may modify the measures as more information becomes available. Interim measures may either be remedial or protective and may include changes to class or work assignments or transportation arrangements.

I. Determination and Resolution of Complaint

The investigator shall be responsible for investigating the complaint of an alleged violation of the Policy. If the investigator determines that there is insufficient evidence to support the allegations, the investigator will prepare a preliminary written report of the investigation so stating and provide copies of the report to both the complainant and the respondent. The complainant and respondent will have five (5) business days to return any written comments or additional evidence to the investigator. The investigator's final written report will then be forwarded to the AA/EO Officer, who will determine if the file should be marked closed.

If the investigator's preliminary report determines that violations have occurred, copies of the preliminary report will be provided to both the complainant and the respondent who will have five (5) business days to return any written comments or additional evidence. The investigator's final written report will then be forwarded to the AA/EO Officer, who, 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, harassment or retaliation. Where the parties agree to a resolution of the complaint, the agreement shall be reduced to writing, signed by both parties and sent to the designated College Vice President or Executive Director; or
2. Will prepare a final written report of the investigation, including recommended remedial measures and whether discipline is warranted. Copies of the final report shall be provided to the complainant and the respondent and the report will be sent to the designated College Vice President or Executive Director.

J. Enforcement of Mediated Agreements and Implementation of Investigator's Recommendations

Where a mediated agreement has been signed by both parties, the designated College Vice President or Executive Director shall be responsible for ensuring that the terms of the agreement are implemented. In the case of a written report and recommendations, the College Vice President or Executive Director 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 by the designated College Vice President or Executive Director.

Student Respondents – Where a respondent is a student, the AA/EO Officer'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 AA/EO Officer shall forward the report and recommendations or the mediated agreement to the Vice President or Executive Director of the College Division to which the employee is assigned.

K. 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 ten (10) business days of the complainant's receipt of the decision being appealed.

Respondent – A 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 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 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 and the appeal must be signed by the respondent. Appeals must be filed within ten (10) business days of the respondent's receipt of the decision being appealed.

L. Education and Prevention

The College will provide educational programs regarding the Policy as well as awareness and prevention training programs to College employees on a regular basis. New College employees will complete non-discrimination education programs upon initial hire, and students will be informed of the Policy and reporting procedures during new student orientation.