



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

Implemented Date: October 11, 2013

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**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 October 11, 2013.

This Policy shall replace the previous Policy, which was approved by the Chancellor of the Board of Higher Education on July 1, 2004. This Policy shall remain in full force and effect until a successor Policy is approved.



Richard M. Freeland
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 Discrimination Act of 1975; Age Discrimination in Employment Act of 1967, as amended; Family and Medical Leave Act of 1993; Federal Executive Order 11246 of 1965, as amended by Executive Order 11375 of 1967; Federal Executive Order 12900 of 1994; Federal Executive Order 13145 of 2000; Federal Executive Order 13160 of 2000; Federal Executive Order 13166 of 2000; Massachusetts Civil Rights Act; Massachusetts General Laws Chapters 151B, 151C, and Chapter 149; directives of the BHE, the Boards of Trustees of the Community Colleges and the Commonwealth of Massachusetts; and other applicable local, state and federal constitutions, statutes, regulations and executive orders.

Non-discrimination requires the elimination of all existing unlawful discriminatory conditions, whether purposeful or inadvertent. The Community Colleges are continuing to systematically examine all policies and procedures to be sure that they do not, if implemented as stated, operate to the detriment of any person on the basis of a protected classification. The Colleges shall require that the practices of those responsible in matters of employment and education, including all supervisors and faculty, are non-discriminatory. Should the College discover discrimination in treatment or effect in any employment, educational or service decision, action, inaction or practice within the College, all appropriate corrective and/or disciplinary actions shall be taken under the direction of the President of the College subject to any applicable collective bargaining agreement or other policy or procedure of the College.

The Community Colleges are committed to a policy of Affirmative Action, equal opportunity, equal education, non-discrimination, and diversity. They are committed to providing a learning, working and living environment for their students, employees and other members of the College Community, which values the diverse backgrounds of all people. The Colleges are committed to assuring that the “College Experience” is one that challenges, empowers, supports, and prepares its students to live in, work in, and value our increasingly global and diverse world. The Colleges believe that the diversity of socio-economic, racial, ethnic, religious, gender, sexual orientation, age and disability backgrounds of members of the College Community enriches the institutions

and their various constituencies. The Colleges will not tolerate behavior based on bigotry, which has the effect of 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 responsibly recognize, and to whatever extent possible, resolve the effects of past societal discrimination and the impact which that discrimination has had, not only on victims of such discrimination, but on the total academic, educational and social system as well. It is not intended and should not be used to discriminate against any applicant, employee, or student because of a protected classification.

In response to that recognition, the Colleges, through their Boards of Trustees and Presidents, fully endorse the plan of action set forth in this Policy and shall oversee and monitor its implementation through the Affirmative Action Officer and other assigned personnel.

The following specific policies are established:

- Equal opportunity and affirmative action shall apply to all segments of the College; full and part-time employment; day and continuing education; the curriculum and offerings of the College.
- Equal opportunity and affirmative action shall be applied to the recruitment process for employment and/or access to education.
- Students will have access to the College, programs of study, activities, and other resources intended to serve them, according to the policies of the individual Colleges.
- Equal employment opportunity and affirmative action will be realized in all personnel employment, including recruitment, application for employment, hiring, benefits, compensation, training, promotion, and termination.
- All policies, procedures, privileges, and conditions of the College will follow and incorporate applicable equal opportunity and affirmative action rules and regulations.

The above-stated policies are intended to be applied broadly with the goal of promoting equal opportunity and diversity in Community Colleges. The Community Colleges pledge to apply all

policies consistently, fairly, and vigorously. Attempts to subvert or abuse these policies will not be tolerated. Appropriate disciplinary action will be taken in the case of an infraction. Such disciplinary action shall be consistent with the appropriate collective bargaining agreement, if applicable.

All policies are made in compliance with laws and regulations and executive orders promulgated by the federal and state governments and other appropriate agencies and authorities, where applicable.

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 _____.

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 complaint alleging a violation of the Affirmative Action Policy.

COMPLAINANT: The student(s) or employee(s), or applicant for admission or employment, filing the complaint.

DAY: As used in this policy, shall mean a calendar day.

DISCRIMINATION: An intentional or unintentional act which adversely affects employment and/or educational opportunities because of a person's membership in a protected class or association with a member(s) of a protected class. Discrimination may be classified as either disparate impact (practices that are facially neutral in their treatment of different groups but that in fact fall more harshly on one group than another and cannot be justified by business necessity) or disparate treatment (treatment of an individual that is less favorable than treatment of others based on discriminatory reasons). A single act of discrimination or discriminatory harassment may be based on more than one protected class status. For example, discrimination based on anti-Semitism may relate to religion, national origin, or both; discrimination against a pregnant woman may relate to sex, marital status, or both; or discrimination against a transgender individual may relate to gender identity, sex or sexual orientation.

Examples of discrimination, which are prohibited by this policy, include, but are not limited to:

- a. Differences in salaries or other benefits that are paid to one or more men or women if the differences are not based on a bona fide occupational qualification.
- b. Differences in terms, conditions and privileges of employment (including, but not limited to hiring, promotion, reassignment, termination, salary, salary increases, discipline, granting of tenure, selection for awards, etc.) on a prohibited basis.
- c. Unlawful disparity of treatment in educational programs and related support services on the basis of membership in a legally protected class.

- d. Developing position descriptions or qualifications, which, without lawful justification, are so specific as to have a disparate exclusionary impact on a group of individuals because of their membership in a protected class.
- 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.

DISCRIMINATORY HARASSMENT: 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. has the purpose or effect of unreasonably interfering with an individual's work or learning performance; or
- c. otherwise unreasonably adversely affects an individual's employment or educational opportunities.

For purposes of this Policy, conduct constitutes hostile environment harassment when it:

- a. is targeted against an individual(s) on the basis of his or her membership in a protected class;
- b. is not welcomed by the individual(s); and

- 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 discriminatory harassment, which are prohibited by this policy, 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, slurs, derogatory comments, unwelcome jokes or stories 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, such as offensive posters, cartoons, bulletins, drawings, photographs, magazines, written articles or stories, screen savers, or electronic communications, to an individual (or group of individuals) because of that person or persons’ membership in a protected class.

EQUAL OPPORTUNITY: A College’s effort to ensure that all personnel and academic decisions, programs and policies are formulated and conducted in a manner which will ensure equal access for all people and prevent discrimination. As part of this effort, a College will ensure that employment and academic decisions, programs and policies will be based solely on the individual eligibility, merit or fitness of applicants, employees and students without regard to race, color, creed, religion, ancestry, national origin, age, disability, sex, marital status, sexual preferences or political or union affiliation.

INSTRUCTIONAL PERIOD: The academic semester, summer session or intersession when a Complainant knows or should have known of an act or inaction in violation of this Policy. The Instructional Period shall end on the last day of final exams.

PERSONAL ADVISOR: As referred to under the Complaint Procedure of this Policy, a personal advisor for a unit member shall be a union representative or College employee, for a non-unit employee it shall be a College employee, and for a student it shall be another student, a College administrator or faculty member.

PROTECTED CLASS(S)/CLASSIFICATION(S): Characteristics or groups of persons protected from discrimination by law and under this Policy, including:

- a. Age - Persons 40 years of age or older.
- b. Color - Variations in skin tone among persons of the same race.
- c. Disability - A person with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. Examples include, but are not limited to, the following: Acquired Immune Deficiency Syndrome (AIDS), Alcoholism; Asthma; Blindness or other visual impairments; Cancer; Cerebral palsy; Depression; Diabetes, Epilepsy; Hearing or speech impairments; Heart Disease; Migraine Headaches; Multiple sclerosis; Muscular dystrophy; Orthopedic impairments; Paralysis; Thyroid gland disorders; Tuberculosis; loss of body parts.
- d. Ethnicity - See National Origin.
- e. Gender - A person's sex, either male or female.
- f. Gender Identity - Gender identity is a term that covers a multitude of sexual identities including, but not limited to, transgender individuals, who are persons whose gender identity or gender presentation falls outside of stereotypical gender norms.
- g. Genetic Information - Any written, recorded individually identifiable result of a genetic test or explanation of such a result or family history pertaining to the presence, absence, variation, alteration, or modification of a human gene or genes.
- h. National Origin - A "national origin group" or "ethnic group" is a group sharing a common language, culture, ancestry, and/or other similar social characteristics.
- i. Persons of Color - Members of the following racial classifications: Black, American Indian/Native Alaskan, Asian/Pacific Islander, and Hispanic/Latino.
- j. Race - Discrimination laws do not contain a definition of "race," but are interpreted to prohibit discrimination on the basis of ancestry or physical or cultural characteristics associated with a certain race, such as skin color, hair texture or styles, or certain facial features, and on the basis of stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups. All individuals, including persons of 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 through tribal affiliation or community recognition.
- k. Religion - “Religion” and “creed” have the same or equivalent meaning: all religious and spiritual observances, practices, and sincerely held beliefs.
- l. Sexual Orientation - Actual or perceived heterosexuality, homosexuality or bisexuality, either by orientation or by practice.
- m. Veteran - Any person who is a member of, applies to perform, or has an obligation to perform, service in a uniformed military service of the United States, including the National Guard.

If at any time subsequent to the implementation of this Policy, additional protected classifications are established under applicable law, individuals in those classifications shall be protected against discrimination under this Policy.

RESPONDENT OR RESPONDING PARTY: The person against whom a complaint is directed.

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 retaliation, which are prohibited by this policy, 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 Amendment to the United States Constitution.

SEXUAL HARASSMENT: Unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- a. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment or academic decisions; or
- b. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's academic or work performance by creating an intimidating, hostile, humiliating or sexually offensive learning or working environment.

Under these definitions, direct or implied requests by a supervisor or instructor for sexual favors in exchange for actual or promised job or academic benefits constitute sexual harassment. The following are some examples of conduct, that either alone or in combination, which may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- a. Unwelcome sexual advances - whether they involve physical touching or not.
- b. Repeated, unsolicited propositions for dates and/or sexual intercourse.
- c. Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess.
- d. Displaying sexually suggestive objects, pictures, cartoons.

- e. Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments.
- f. Verbal harassment or abuse on the basis of sex.
- g. Inquiries into another person's sexual activities, practices or experiences.
- h. Discussion of one's own sexual activities, practices or experience.

SEXUAL VIOLENCE: Any sexual activity where consent is not obtained or able to be freely given, and shall include the following categories:

- a. Rape - Defined in Massachusetts as the oral, anal, or vaginal penetration by an inanimate object, penis, or other bodily part without consent. In Massachusetts, it is illegal to have sex with someone who is incapable of giving consent because they are: (1) intoxicated; (2) unconscious; (3) mentally incompetent; or (4) under 16 years of age.
- b. Acquaintance Rape - Rape upon someone by a person he or she knows.
- c. Any unwanted sexual activity that is forced or coerced by one person on another.

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 COORDINATOR: A College employee assigned the responsibility for maintaining the College's compliance with Title IX. The Title IX Coordinator is responsible for administering this Policy relative to complaints of sex discrimination, sexual harassment or sexual violence. The Title IX Coordinator may also serve as the College's Affirmative Action Officer. If these positions are held by different individuals, the AAO and the Title IX Coordinator may collaborate on the enforcement of any aspect of this Policy. The Title IX Coordinator should not have other job responsibilities that may create a conflict of interest. For example, serving as the Title IX Coordinator and a disciplinary hearing board member or general counsel may create a conflict of interest. There may also be a Deputy Title IX Coordinator designated to assist the Title IX Coordinator in the performance of his/her duties. The Title IX Coordinator is _____ and can be contacted at _____.

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 employment environment. Therefore, the Community Colleges establish a policy of unequivocal condemnation of all forms of ethnic, religious, cultural, or racial intolerance within the fifteen College communities.

This policy condemns all conditions and all actions or omissions, including all acts of verbal harassment or abuse, which deny or have the effect of denying to an individual his/her rights to equality, dignity and security in violation of his/her rights guaranteed under the law. The policy reaffirms the doctrine of civility, appreciation for pluralism and the pre-eminence of individual human dignity as preconditions to the achievement of an academic community that recognizes and utilizes the resources of all persons while recognizing and reaffirming the tenets of academic freedom as stated in applicable collective bargaining agreements. The Community Colleges recognize their obligation to protect the rights of free inquiry and expression, and nothing herein shall be construed or applied so as to abridge the exercise of rights under the Constitution of the United States and other federal and state laws.

The Community Colleges will vigorously strive to achieve diversity sufficiently reflective of our society. However, diversity alone will not suffice. There must be a unity and cohesion in the diversity that we seek to achieve, thereby creating an environment of pluralism.

The Community Colleges bear a responsibility by edict and an obligation by social morality to promote understanding and acceptance of ethnic, cultural, religious and racial diversity as we strive to create an atmosphere of dignity for all individuals and groups within our system of public higher education. The President or his/her designee will take reasonable measures to prevent and discourage harassment and will act positively to investigate alleged harassment and to affect a remedy or resolution when an allegation is determined to be valid.

II. POLICY AGAINST DISCRIMINATION, DISCRIMINATORY HARASSMENT AND RETALIATION

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

Discrimination, Discriminatory Harassment, Protected Class(s)/Classification(s) and Retaliation are defined under the “Definitions” section of this Policy.

c. Prohibited Conduct

The Policy prohibits all conditions and all actions or omissions, including all acts of discrimination, discriminatory harassment and retaliation, 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 discrimination, discriminatory harassment and retaliation.

The 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.

d. Conduct That is Not Prohibited

The Community Colleges are committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service, and research. Nothing in this policy shall be construed to penalize a member of the College community for expressing an opinion, theory, or idea in the process of responsible teaching and learning. Accordingly, any form of speech or conduct that is protected by the principles of academic freedom or the First Amendment to the United States Constitution is not subject to this policy.

e. Complaint Procedures

The Community Colleges have established a specific internal Complaint Procedure to help resolve claims and complaints of discrimination, discriminatory harassment and retaliation on their campuses (see Section L). Any applicant for employment or admission, any student or employee, and any other member of the College community who believes that he or she has been a victim of discrimination, discriminatory harassment or retaliation may initiate complaint as outlined in the Policy's Complaint Procedures. Further advice or information may be obtained by contacting the Affirmative Action Officer.

f. Duty to Cooperate

Every faculty member, librarian, administrator, staff member and College employee has a duty to cooperate fully and unconditionally in an investigation conducted pursuant to this Policy's Complaint Procedure, subject to the provisions of any relevant collective bargaining agreements.

This duty includes, among other things, speaking with the Affirmative Action Officer, Title IX Coordinator or other authorized personnel or investigator and voluntarily providing all information and documentation which relates to the claim being investigated. The failure and/or refusal of any employee to cooperate in an investigation may result in disciplinary action up to and including termination.

g. Duty to Report

No member of the College community who receives a complaint of discrimination, discriminatory harassment or retaliation can ignore it; he or she should give to the person making the complaint as much assistance in bringing it to the attention of the Affirmative Action Officer or Title IX Coordinator as is reasonably appropriate given his or her position at the College and relationship with the person making the complaint. Any trustee, administrator, department chair, program coordinator, manager or supervisor who receives a complaint of discrimination, discriminatory harassment or retaliation from a student or other member of the College community is obligated to report the complaint to the Affirmative Action Officer as soon as he or she becomes aware of it. In the case of claims of sexual harassment or sexual violence, reports shall be made to the Title IX Coordinator. Any investigation of such allegations shall be conducted by the College's Affirmative Action Officer and/or the Title IX Coordinator.

Similarly, all students, faculty, staff, administrators, and others having dealings with the institution are encouraged to report to the Affirmative Action Officer or the Title IX Coordinator any conduct of which they have direct knowledge and which they in good faith believe constitutes discrimination, discriminatory harassment or retaliation in violation of this Policy.

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

h. False Charges

Filing a false charge of discrimination, discriminatory harassment or retaliation 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 Plan.

III. POLICY AGAINST SEXUAL HARASSMENT

a. Introduction

It is the goal of the Community Colleges to promote an educational environment and workplace that is free of sexual harassment. Sexual harassment of students or employees occurring in the classroom or the workplace is unlawful and will not be tolerated by the Community College. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by students or employees.

Because the Community Colleges take allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective measures, including disciplinary action where appropriate and consistent with applicable collective bargaining agreements.

b. Definition of Sexual Harassment

Sexual Harassment is defined under the “Definitions” section of this Policy.

The legal definition of sexual harassment is broad and applies to any individual of either gender who participates in the college community, including a student, faculty member, administrator or any other person having dealings with the college. In addition, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a hostile, offensive, intimidating, or humiliating workplace or academic environment to male or female workers or students may also constitute sexual harassment.

It is important to note that when assessing whether conduct constitutes sexual harassment, a “reasonable person standard” shall be applied. The term “reasonable person” is used to describe an objective standard to determine if harassment has occurred. Under the standard, in order for conduct and behavior to be considered sexual harassment, a reasonable person under similar circumstance would have to conclude that the behavior was harassing or discriminatory.

All employees and students should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, or retaliation against individuals who

have cooperated with an investigation of sexual harassment is unlawful and will not be tolerated by the Community Colleges.

c. Consensual Relationships

(1) Faculty/Administrator/Staff Member Relationships with Students

A romantic and/or sexual relationship, consensual or otherwise, between a faculty member, administrator or staff member and a student is looked upon with disfavor and is strongly discouraged. No faculty member shall have a romantic and/or sexual relationship, consensual or otherwise, with a student who is being taught or advised by the faculty member or whose academic work is being supervised or evaluated, directly or indirectly, by the faculty member. No administrator or staff member shall have a romantic and/or sexual relationship, consensual or otherwise, with a student who the administrator or staff member supervises, evaluates, advises, or provides other professional advice or services as part of a College program or activity.

(2) 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.

d. Complaints of Sexual Harassment

If any student or employee believes that he or she has been subjected to sexual harassment, the student or employee has the right to file an Affirmative Action Discrimination Complaint Form (see Appendix A) with the College. For more information or assistance with filing a complaint, please contact the College's Affirmative Action Officer or Title IX Coordinator. If the Affirmative Action Officer or the Title IX Coordinator is the subject of a complaint, the President shall designate another College official to administer the Complaint Procedures.

All complaints will be investigated in such a way as to maintain confidentiality to the extent practicable under the circumstances. If it is determined that a violation of this Policy has occurred, the College will act promptly to eliminate the harassing conduct, and take disciplinary action where warranted. All disciplinary action taken shall be consistent with any applicable collective bargaining agreement. The Duty to Cooperate, Duty to Report, and the obligation to avoid making False Charges, as discussed previously in this Policy, shall be fully applicable under this section.

e. Institutional Measures to Confront Sexual Harassment

The Community Colleges are committed to promoting, to the greatest degree possible, an environment free from sexual harassment. To this end, the Colleges will take the following steps:

1. Distribute this Policy against sexual harassment to all segments of the College community on an annual basis;

2. Post this Policy against sexual harassment; and
3. Conduct educational programs for the College community regarding the causes, character and consequences of sexual harassment as well as the steps available to stop such practices on the campus.

f. 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.

United States Equal Employment Opportunity Commission ("EEOC")

One Congress Street
10th Floor Boston, MA 02114
(617) 565-3200.

The Office For Civil Rights, U.S. Department of Education ("OCR")

Department of Education
John W. McCormack Post
Office and Courthouse
Room 222
Boston, MA 02109
(617) 223-9662

Massachusetts Commission Against Discrimination ("MCAD")

Boston Office:
One Ashburton Place
Rm. 601
Boston, MA 02108
(617) 727-3990

Worcester Office:
Worcester City Hall
455 Main Street, Room 101
Worcester, MA 01608
(508) 799-8010

Springfield Office:
424 Dwight Street
Rm. 220
Springfield, MA 01103
(413) 739-2145

New Bedford Office:
800 Purchase St., Rm 501
New Bedford, MA 02740
(508) 990-2390

IV. POLICY AGAINST SEXUAL VIOLENCE

a. Introduction

Sexual violence is prohibited under state law and the College's Affirmative Action Policy. Sexual violence is prohibited pursuant to Title IX of the Educational Amendment Act of 1972, which states: *No person in the United States, shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal assistance.*

All reported or suspected cases of sexual violence shall be reported to the College's Affirmative Action and/or Title IX Coordinator. Please refer to the Complaint Procedures for specific complaint procedures and guidelines (see Section L).

The College is obligated to investigate allegations of sexual violence, even if the alleged victim chooses not to participate in the investigation. An employee or student who commits an act of sexual violence shall be subject to disciplinary action, up to and including expulsion or termination from the College, as well as criminal prosecution.

The College prohibits retaliation against any person who presents a formal or informal complaint of sexual violence or who testifies or offers evidence connected with a complaint. Retaliation is a violation of this policy whether or not the underlying claim of sexual violence is confirmed.

b. Reporting Complaints of Sexual Violence

If any student or employee believes that he or she has been the victim of sexual violence, the student or employee has the right to file an Affirmative Action Discrimination Complaint Form with the College (see Appendix A). For more information or assistance with filing a complaint, please contact the College's Title IX Coordinator. If the Title IX Coordinator is the subject of a complaint, the President shall designate another College official to administer the Complaint Procedures.

Additionally, if desired, the Title IX Coordinator and/or Campus Police can provide assistance in contacting local police. Reporting the incident to the Title IX Coordinator or law enforcement does not commit the victim to filing charges, however, the College is required to investigate such reports. Although every reasonable effort will be made to protect a victim's privacy, individuals with a need to know may be contacted and information may be shared as necessary to investigate and adjudicate the matter or as public safety requires. A report of the incident will be filed with local police in the event public safety is at risk even if the victim does not intend to report the incident to police or cooperate in an investigation.

c. Sexual Violence Defined

Sexual violence is defined under the "Definitions" section of this Policy.

d. Protections for Victims of Sexual Violence

A person who is subjected to sexual violence has the following protections:

- To be informed of their reporting options with regard to notifying local law enforcement authorities and to be assisted in notifying such authorities if they so choose.
- Not to be discouraged by College officials from reporting an incident to both on-campus and off-campus authorities.
- To be free from any suggestion that they somehow contributed to or had a shared responsibility in the violent act.
- To have the full and prompt assistance and cooperation of campus personnel should a civil and criminal complaint be pursued.
- To the same level of support at any proceeding before College officials as is permitted to the accused party, including the presence of a representative during any disciplinary proceeding and the right to be notified in a timely manner of the outcome of such proceedings.
- To full and prompt cooperation from College personnel in obtaining and securing evidence (including medical evidence) necessary for any potential criminal proceedings.
- To have access to existing College counseling and medical professionals, victim support services, and to obtain referrals to off-campus counseling and support services if desired.
- To attend classes, work and participate in College activities free from unwanted contact or proximity with the accused individual(s) insofar as the College is permitted and able.
- To request changes to an academic schedule if such changes are requested by the reporting student and are reasonably available.

e. Recommended Procedures for a Victim of Sexual Violence

For a person subjected to an act of sexual violence, there can be time-sensitive decisions to make about sexually transmitted infections, pregnancy, and collecting physical evidence in the event of prosecution. Individuals who have been victims of sexual violence should be advised as follows:

- **Protect Themselves and Get Medical Attention** – A victim should be advised to go to a safe place as soon as possible and seek medical attention immediately. Injuries and exposure to disease may not be immediately apparent. A medical examination can provide necessary treatment and collect important evidence. It is recommended that a physical exam be conducted within 72 hours of the violence. Submitting to a physical exam does not mean that a victim is required to press charges. This action merely

preserves the option to do so. Designated College personnel can assist in providing transportation to the hospital.

- **Preserve Evidence** - It is important to preserve all physical evidence following an act of sexual violence. Physical evidence may be necessary in the event criminal prosecution is pursued. If possible, a victim should be advised not to wash, eat, drink, douche, clean, use the bathroom, or change clothes. If clothes are changed, all clothes that were worn at the time of the incident should not be cleaned and should be placed into an unused or a clean paper bag.
- **Health and Support Services** - Various health and support services are available on and off campus for students and employees who have experienced sexual violence. For information about such services, including counseling, please contact the Affirmative Action and/or Title IX Coordinator.

f. 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 <http://www.mass.gov/eohhs/consumer/family-services/violence-abuse/sapss/programs/>:

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

Women Support Services, Vineyard Haven, 508-696-7233

Greater New Bedford Women Center, New Bedford, 888-839-6636 Hotline, 508-996-1177 TTY

New Hope, Attleboro, 800-323-4673 Hotline/TTY

Stanley Street Women Center, Fall River, 508-675-0087 Hotline, 508-673-3328 TTY

Womansplace Crisis Center, Brockton, 508-588-8255 SA Hotline, 508-894-2869 TTY

Western Massachusetts

Elizabeth Freeman Center, Pittsfield, 413-443-0089 Hotline, 413-499-2425 TTY

Everywoman Center, Amherst, 413-545-0800 Hotline, 888-337-0800 TTY

NELCWIT, Greenfield, 413-772-0806 Hotline/TTY

YWCA, Springfield, 800-796-8711

YWCA of Western Mass, Westfield, 800-479-6245 Hotline/TTY

These Rape Crisis Centers offer FREE services to survivors of sexual violence, including:

- 24/7 hotline counseling, information, and referral;
- Will go with survivors to hospitals and/or police stations 24/7;
- Will go with a survivor to court;
- Provide one-to-one counseling and support group counseling; and
- Provide primary prevention education; professional training; outreach.

g. Mandatory Reporting 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.

V. NON-DISCRIMINATION AND ACCOMMODATION FOR PERSONS WITH DISABILITIES

It is illegal to discriminate against an otherwise qualified individual with a disability. The Community Colleges recognize the multitude of barriers that confront persons with disabilities in access to both employment and education. Consistent with state and federal statutes that affirm and protect the equal opportunity rights of persons with disabilities, the Community Colleges adopt a policy of non-discrimination and equal opportunity for otherwise qualified persons with disabilities. Any employee or student who believes he/she has been a victim of discrimination due to a disability may file a complaint pursuant to the Complaint Procedures found at Section L of this Policy.

a. In Employment

The Community Colleges will take constructive measures to ensure equal opportunity in all areas of employment including recruitment, selection, upgrading, opportunities for training and development, rate of compensation, benefits and all other terms and conditions of employment. Further, the Colleges will periodically examine all existing employment policies, practices and facilities to ensure that they do not pose a disparate impact for otherwise qualified persons with disabilities. Where such disparity is found, it will be corrected as quickly and completely as is reasonable under existing circumstances. Accordingly, all College facilities may not be available and accessible at a particular time.

b. In Education

The Colleges will periodically examine all existing admissions, student support and other student life policies, practices and facilities to assure that they do not pose a disparate impact for otherwise qualified disabled students. Where such disparity is found, it will be corrected as quickly and completely as is reasonable under existing circumstances. Accordingly, all College facilities may not be available and accessible at a particular time. The Colleges will adopt a policy of non-discrimination with respect to admissions, access to programs and facilities and services for all otherwise qualified disabled persons.

c. Reasonable Accommodations

A “reasonable accommodation” under state and federal law is defined as “modifications or adjustments to an application process, job, work environment, the way in which work is customarily performed, or a course of study that permit a qualified individual with a disability to perform the essential functions of a position or to enjoy the benefits and privileges of employment or education equally with persons without disabilities.”

Reasonable accommodations in employment may include, but are not limited to:

- making existing facilities used by employees readily accessible to and usable by persons with disabilities;
- job restructuring;
- 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.

d. Interactive Process

State and federal laws define the “interactive process” as an ongoing communication between, among other parties, employer and employee, college and student, with a known disability in an effort to provide reasonable accommodation. Both parties must engage in the interactive process and communicate directly with each other in order to formulate and effective accommodation plan. Neither party can delay nor interfere with the process.

e. Undue Hardship and Fundamental Alteration

The Community Colleges are required to make reasonable accommodations to qualified individuals with disabilities unless doing so would impose an undue hardship on the operation of a College’s business or result in a fundamental alteration of a job or academic course or program. Undue hardship means an action that requires significant difficulty or expense when considered in relation to factors such as a College’s size, financial resources, and the nature and structure of its operation. Fundamental alteration is a change that is so significant that it alters the essential nature a job or an academic course or program.

f. Process for Requesting a Reasonable Accommodation

An employee or job applicant seeking a reasonable accommodation for a disability may contact the College’s Office for Human Resources. A student or student applicant seeking a reasonable accommodation for a disability may contact the College’s Disability Services Office. All requests for an accommodation are evaluated on a case-by-case basis. Individuals seeking accommodations should be prepared to submit current medical documentation for review in the accommodation process.

VI. CONTRACTING AND PURCHASING

When selecting contractors, suppliers, and vendors of goods and services, including goods and services secured in connection with construction projects, the Colleges will offer equal opportunity to all qualified persons and entities and will not discriminate on the basis of a protected classification.

The College shall use reasonable efforts to attract and encourage bid proposals from a diverse pool of qualified contractors, subcontractors, vendors and suppliers. The College is strongly encouraged to identify businesses primarily operated by individuals within the protected

classifications with the help of the Commonwealth's Supplier Diversity Office.

When transacting business with contractors, vendors and suppliers, the Community Colleges shall include in all contracts the following statement:

Non-Discrimination in Employment: The Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, sexual orientation, gender identity, religion, genetic information veteran status, marital status or disability. The Contractor agrees to comply with applicable federal and state statutes, rules and regulations prohibiting discrimination in employment, including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act of 1990, Massachusetts General Laws, Chapter 151B and all administrative and executive orders, where applicable.

The Colleges reserve the right to disqualify any contractor, person or entity seeking to provide services to a Community College that fails to adhere to the prohibitions against discrimination in employment that are contained in this section.

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

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.

The AAO will analyze the College’s work force composition. The AAO may also analyze specific work areas or divisions within the College to determine if under-utilization of any protected group exists. The development of goals and timetables to correct any identified under-utilization shall be the responsibility of the AAO with input from the appropriate administrative officers. Although the basic responsibility for implementation of the affirmative action/equal opportunity program necessarily rests with the administrative officers of the College, the Affirmative Action Officer is responsible for providing advice and assistance.

The AAO shall be an ex-officio member of the Affirmative Action Committee and shall facilitate this Policy’s Complaint Procedures.

The College shall also employ a Title IX Coordinator. The Title IX Coordinator may also serve as the College’s AAO. The Title IX Coordinator shall have experience and training in responding to and administering complaints involving sex discrimination, sexual violence and sexual harassment. The Title IX Coordinator shall implement preventive education programs and make victim resources, including comprehensive victim services, available. Education programs may be part of (1) orientation programs for new students, faculty, staff, and employees; (2) training for student athletes and coaches; and (3) other College activities. These programs should include a discussion of what constitutes sex discrimination and sexual violence, the College’s policies and disciplinary procedures, and the consequences of violating these policies. The education programs also should include information aimed at encouraging students to report incidents of sex discrimination, sexual violence or sexual harassment to the appropriate College and law enforcement authorities.

See Definition Section for Affirmative Action Officer and Title IX Coordinator contact information.

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 for employment or member of the community. The Policy is available upon request from the College's Affirmative Action Officer and on the College's website. Colleges may implement procedures requiring employees to annually confirm their receipt of this Policy.

In accordance with state and federal requirements, the following notice will be included in all vacancy postings and other appropriate college publications, contracts, solicitations for bids, purchase orders, and leases:

_____ *Community College is an affirmative action/equal opportunity employer and does not discriminate on the basis of race, color, national origin, sex, disability, religion, age, veteran status, genetic information, gender identity or sexual orientation in its programs and activities as required by Title IX of the Educational Amendments of 1972, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Title VII of the Civil Rights Act of 1964, and other applicable statutes and college policies. The College prohibits sexual harassment, including sexual violence. Inquiries or complaints concerning discrimination, harassment, retaliation or sexual violence shall be referred to the College's Affirmative Action and/or Title IX Coordinator, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunities Commission or the United States Department of Education's Office for Civil Rights.*

H. PLAN OF ACTION

a. Program Purpose and Intent

The Community Colleges are committed to a policy of equal opportunity and affirmative action. The purpose of this Policy is to establish programmatic objectives that will provide for the access and advancement of qualified minorities, women, and persons with disabilities with respect to both employment and education. The intent of this Policy is to acknowledge and responsibly alleviate the effects of societal discrimination and its impact on the protected group.

b. Scope

Affirmative action and equal opportunity shall be viewed as an integral part of the mission and purpose of each Community College. The Affirmative Action Policy by its very nature shall affect and apply to all aspects of recruitment, employment and education.

The opportunity for education for students in the protected classifications will be an imperative. Affirmative action programs should support not only student admissions to the College but also its programs.

In employment, affirmative action will affect recruitment, terms and conditions of employment, administrative procedures and relevant policies and practices of the College.

c. Workforce and Utilization Analysis

A procedure for implementation of the Policy will be undertaken and it will include opportunities for maximum communication between the responsible parties, i.e., supervisors, the Affirmative Action Officer and the President. A workforce and utilization analysis shall be conducted annually.

d. Under-Utilization

Under-utilization exists when the number of individuals in protected classifications in an occupational category is fewer than would reasonably be expected based upon the availability of qualified persons for employment within a specific geographic area. When under-utilization is identified for appropriate organizational units and occupational categories, goals and timetables are established as a means of increasing the employment of qualified individuals in protected classifications at the earliest possible time. This section shall be applied in a manner consistent with the appropriate collective bargaining agreement, if applicable.

e. Goals

Hiring goals are targets for increasing the employment of qualified individuals in protected classifications in appropriate organizational units and/or occupational categories of the College workforce. Hiring goals are not rigid quotas. They are reasonable estimates of what is attainable

and are established separately for individuals in protected classifications.

Program goals include special efforts to remove barriers, to improve awareness or sensitivity, to address problem areas identified within the College Affirmative Action Policy, to bring about conditions that will promote the hiring goals, or to address changes taking place within the institution. General timetables are to be established for the implementation of the goals. The time period shall normally be between two (2) and five (5) years.

f. Identification of Problem Areas and Remedial Approaches

At the request of the Commissioner, the President shall submit a report to the Commissioner as referenced in Auditing and Reporting and shall include an analysis of under-utilized areas and possible solutions and may cover such issues as curricular concerns, employment and student recruitment, hiring, retention of employees, resignations, and College activity and program availability. The report will also consider and give an analysis of the established goals and timetables.

g. Programmatic & Collaborative Efforts

The Community Colleges have, as a group, committed themselves to a policy of affirmative action/equal opportunity and non-discrimination throughout this Policy. The Colleges realize, however, that the development and implementation of specific programmatic efforts, both individually and collaboratively, will be essential to the establishment of an action oriented program. Rather than rendering affirmative action policies that merely represent a compilation of policies, procedures and prohibited practices solely designed to avoid discrimination, these action-oriented elements ensure that this Policy becomes a pro-active, aggressive tool as opposed to a passive document.

In an effort to fully establish joint collaborative programs that will enhance the implementation of the Community Colleges' Affirmative Action Policy, the Affirmative Action Officers of the fifteen institutions are encouraged to work collaboratively on the following initiatives.

1. Recruitment Directory

A directory of recruitment resources may be developed for each major category of positions (i.e., academic discipline, administrative area, field of focus) listing the various known sources for contact. This directory will list individuals, departments, institutions, organizations, professional associations and their various caucuses that are known to be good sources of candidates from protected classifications. In addition, the directory will also contain a listing of major publications such as newspapers, journals or other periodicals that print job advertisements and have substantial circulation among individuals in protected classifications and other underrepresented persons or groups. Trade or professional journals for each academic discipline and professional area will also be included.

2. 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.

3. 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 applicable mailing lists of contacts and resume file, if any, developed and maintained for affirmative action recruiting. Goals will be reviewed at the time of recruitment.

When practicable, the time permitted between the initial public announcement of an available position and the deadline for submission of applications must allow for adequate selective notification of qualified individuals in protected classifications.

For vacancies for positions that are half-time or greater, the Affirmative Action Officer will consult with the hiring manager to determine an appropriate recruitment time frame which will allow sufficient time to recruit under-utilized persons while simultaneously meeting the organization's need to fill the position as soon as possible.

Deans and Vice Presidents are encouraged to plan ahead and schedule all searches so as to allow sufficient time to conduct effective affirmative action searches.

If the recruitment process fails to yield sufficient numbers of qualified candidates from a designated protected group, consideration may be given to reposting the position. This section shall be applied in a manner consistent with the appropriate collective bargaining agreement, if applicable.

The Affirmative Action Officer shall have access to all applications for the purpose of reviewing and certifying the process and the outcome and for the purpose of collecting data to conduct applicant flow studies, etc. Additionally, the Affirmative Action Officer may make recommendations for interviewing affirmative action candidates.

The hiring process will generally include an interview with a search committee, which may include the position's direct supervisor and/or other appropriate persons who have responsibility in the work area. The Affirmative Action Officer will review a committee's recommendation for appointment and sign it to verify compliance with affirmative action procedures. If the Affirmative Action Officer finds that the recruitment and/or selection process does not satisfy affirmative action requirements, he/she should submit his/her reservations to the President.

In regard to hiring/promotions, the College will comply with all applicable collective bargaining provisions when making such decisions.

J. COLLEGE AFFIRMATIVE ACTION COMMITTEE

An Affirmative Action Committee shall be established consisting of at least seven (7) members representative of faculty, administrators, non-teaching professionals, classified staff and students. The Committee shall include protected classification representation. The members shall be appointed by the President. The Affirmative Action Officer shall be an ex-officio member of the Committee.

The Committee shall act as a policy advisory body to the President in all matters concerning affirmative action and equal opportunity. Specific responsibilities of the Committee may include, but are not limited to, the following:

1. Advise and assist the President and the Affirmative Action Officer in developing, implementing and evaluating the College's Affirmative Action Program;
2. Recommend changes in the programs or policies;
3. Represent the concerns of all employment areas of the College as these concerns relate to equal opportunity;
4. Be informed about the rules and procedures of the College as well as federal and state laws and regulations governing affirmative action and equal opportunity;
5. Meet as necessary, but not fewer than two (2) times a year; and
6. Help sensitize and educate the College community regarding the affirmative action issues facing higher education and the larger society and to help broaden understanding of diversity in our society as well as to encourage behaviors appropriate to a pluralistic society.

K. AUDITING AND REPORTING

Primary responsibility for monitoring compliance and auditing the implementation of the Affirmative Action Policy rests with the Affirmative Action Officer and the Title IX/Section 504 Coordinator. These officers shall furnish the President with progress reports and shall inform the President of practices or policies that may not be in compliance with the policy of affirmative action, non-discrimination and equal opportunity.

The Affirmative Action Officer will annually review the progress being made toward achievement of the College's affirmative action goals. The review shall include the goals and timetables in order to recommend revisions that may be required as a result of changes in federal or state law, availability figures, institutional performance or other circumstances that affect the implementation of this policy. In addition, he/she will assure that annual compliance reports required by the Board of Higher Education and other state and federal agencies are completed. The Title IX/Section 504 Coordinator will review annually the progress made toward complying with current legislation, the Affirmative Action Policy, and the actions taken to ensure equal opportunity and affirmative action to all disabled students and employees.

To ensure compliance with this Policy, the Affirmative Action Officer and the Title IX/Section 504 Coordinator will also review and evaluate the applicable policies, programs and activities related to job requirements, performance criteria, personnel benefit plans, students support services, facilities and programmatic access, vendor contract submission and services, media advertising and public relations materials, including all College publications. Recruitment and hiring procedures will be monitored using the methods described in this Policy. All monitoring and analyses will be conducted as necessary to identify problem areas and provide recommendations to remedy them.

The Affirmative Action Officer shall conduct periodic audits of the utilization analysis and goals. The purpose of the audit will be to assess progress toward established goals and to apprise other persons responsible for recruitment of the findings. Continuous monitoring is important to the success of the Policy. The findings, while utilized throughout the year, will be reported formally in the annual report. Problem areas and successes will be reported. Additionally, compliance reports requested by other agencies should be included as an internal audit mechanism.

L. COMPLAINT PROCEDURE

I. General Information

a. Application of Policy

The complaint procedure is intended to provide a mechanism to investigate and where possible resolve complaints of alleged violations of this Policy against employees and students. The procedures outlined below are intended to ensure that the College will conduct an impartial, fair, effective, and efficient investigation of all allegations of discrimination without fear of retaliation. The complaint procedure is available to any employee or student who believes he/she has been discriminated against on the basis of race, color, religion, national origin, sex, age, disability, sexual orientation, genetic information, veteran status, maternity leave, gender identity, and/or subjected to sexual harassment, sexual violence, or retaliation. A complaint filed in another forum does not preclude a student or employee from filing a complaint under this Policy. Further, a complaint filed in another forum, including a criminal or civil complaint, shall not delay an investigation of a complaint filed under this Policy.

b. Confidentiality of Process

The complaint procedure will be conducted as confidentially as reasonably possible to protect the privacy rights of all individuals involved. The College may share information concerning the complaint with parties, witnesses and/or others during any phase of the procedure on a need-to-know basis and shall share information with union representatives as provided for in G.L.c.150E. All individuals with whom information is shared shall be advised of the confidential nature of the information and directed not to discuss the matter with anyone other than a personal advisor, if applicable.

c. Complainant Requests Confidentiality

Where a Complainant requests that no action be taken by the College or requests that her/his identity not be revealed, the College shall take reasonable steps to investigate and respond to the complaint, but shall inform the Complainant that such a request may hamper its ability to fully investigate an alleged violation of this Policy and/or to take appropriate remedial steps, including disciplinary action. Where an allegation includes the potential of an ongoing threat to the health, safety or security of the College or a potential adverse employment action, the Affirmative Action Officer shall inform the Complainant that it cannot ensure confidentiality and disclosure of their name may likely be required.

d. Anonymous Complaints

To the extent possible, the College is obliged to investigate and respond to anonymous complaints.

e. Off Campus Behavior

The College reserves the right to investigate alleged prohibited conduct under this Policy occurring off-campus when such conduct adversely affects the College Community, poses a threat of harm to the College Community; interferes with the College's pursuit of its educational objectives and mission, and/or if a student or employee is charged with a serious violation of state or federal law.

f. Interim Action

The College reserves the right to suspend a student on an interim basis or place an employee on paid administrative leave prior to completing an investigation under this Policy when it reasonably concludes that a student or employee: (a) poses a threat to health or safety; (b) poses a threat to College property or equipment; (c) is disruptive or interferes with the normal operations of the 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.

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 and the administrator charged with enforcing conduct policies. For example, if the Responding Party is a student, the Affirmative Action Officer 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 the Affirmative Action 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 and the employee's supervisor. Based on the findings of their joint investigation, the employee may be subject to disciplinary action for violations of the Affirmative Action 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 or personnel policies.

i. Complaints of Sex Discrimination, Sexual Harassment or Sexual Violence

The Title IX Coordinator shall have the responsibility for administering this Policy relative to complaints of sex discrimination, sexual harassment and sexual violence.

II. Complaint Procedure

The complaint process is comprised of two procedures - the informal procedure and the formal procedure.

a. Informal Procedure

Where appropriate, the parties to a dispute and/or the Affirmative Action Officer, may attempt to reach an informal and prompt resolution of the potential complaint. Informal resolution is encouraged and any of the parties involved may request the intervention of the Affirmative Action Officer to assist in resolving the matter informally. An informal resolution is achieved through open 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 allegations of sexual harassment or sexual violence. 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.

b. Formal Procedure

The following rules apply throughout all phases of the formal complaint process: (1) all parties to a complaint may have a personal advisor (for union employees this may be a union representative); (2) the role of a personal 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 complaint involving a grade dispute shall proceed under this Policy when a student alleges that a grade was improper because of discrimination, discriminatory harassment, sexual violence or retaliation; and (5) all findings reached under this procedure must be based on a “preponderance of evidence” (i.e.; more likely than not) standard.

At any point during the formal 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 (30) days after agreed to by the parties. The timelines presented under the Complaint Procedure shall be tolled pending the outcome of mediation. If mediation is successful in resolving the complaint, the Affirmative Action Officer shall reduce to writing the terms of the mediated resolution, which shall be signed by the parties. The mediation process shall not be used in an effort to resolve allegations of sexual harassment or sexual violence. If mediation does not result in a resolution, all mediation discussions shall remain confidential and may not be used or introduced in this process or any other forum.

Step 1 – Affirmative Action Officer Investigation

When a Complainant believes that he/she has been discriminated against because of his/her race, color, religion, national origin, sex, age, disability, sexual orientation, gender identity, genetic information, veteran status, maternity leave and/or subjected to sexual harassment, sexual violence, or retaliation, the Complainant may file a formal written complaint in writing with the Affirmative Action Officer. For student Complainants, a formal complaint may be filed within thirty (30) days following the end of the instructional period when the Complainant knew or should have known of the grievable act. For employee Complainants, a formal complaint may be filed within thirty (30) days from when the Complainant knew or should have known of the grievable act. The complaint shall contain a statement of all known facts pertaining to the alleged violation and shall be filed preferably on the Affirmative Action Discrimination Complaint Form (see Appendix A), which shall be available from the Affirmative Action Officer. If a student is involved, the Affirmative Action Officer shall notify the Vice President or Dean of Student Services.

During Step 1, the Affirmative Action Officer has the authority to seek to resolve the complaint through an administrative remedy. If the parties accept the administrative remedy proposed, its terms shall be reduced to writing, signed by both parties and the Affirmative Action Officer shall retain the document, with copies to the parties. Thereafter, the matter shall be considered resolved between the parties.

Upon receiving a written complaint, the Affirmative Action Officer will notify the Responding Party in writing, of the complaint (see Appendix B), and provide the Responding Party with a copy thereof. The timeliness of such notification shall be in accordance with the appropriate collective bargaining agreement, if applicable. The Responding Party shall have ten (10) days from receipt of notice to submit to the Affirmative Action Officer a written response to the complaint.

Where practicable, within thirty (30) days from the date the Respondent's written response is received, or the date it was due if none was submitted, the Affirmative Action Officer shall conduct an investigation and prepare and issue a Report of Preliminary Findings to the parties. The investigation shall include, but is not limited to, an analysis of the allegations and defenses presented, consideration of all relevant documents, including materials presented by the parties, interviews of the parties and other individuals and/or witnesses, and/or reviewing certain documents or materials in the possession of either party that the Affirmative Action Officer has deemed relevant to the complaint. The Affirmative Action Officer's report shall specify the investigation undertaken and summarize his/her preliminary findings. The report shall be delivered to the parties in hand or by certified mail. If the investigation is not completed within thirty (30) days, status updates shall be provided to the parties every thirty (30) days until its completion.

Thereafter, the parties will have ten (10) days from the date of their receipt of the Report of Preliminary Findings to submit Rebuttal Statements to the Affirmative Action Officer. The parties may present no new allegations at that time. Where practicable, within seven (7) days of receiving the parties' Rebuttal Statements, the Affirmative Action Officer shall review the

rebuttal Statements and prepare and submit a Report of Final Findings and Recommendations to the President's Designee for consideration.

Step 2 – Review and Decision by the President's Designee

Where practicable, within ten (10) days of receipt of the Affirmative Action Officer's Report of Final Findings and Recommendations, the President's Designee shall issue a written decision to the parties. The written decision shall accept, reject or modify the Affirmative Action Officer's Final Findings and Recommendations. The Designee's written decision shall be delivered in hand or by certified mail and shall include the Report of Final Findings and Recommendations. If the President is the Responding Party in an Affirmative Action Complaint, then the Chair of the College's Board of Trustees shall designate a Board member(s) as Designee to administer Step 2 of the Complaint Process.

Step 3 – Appeal to President

A party who is not satisfied with the Designee's written decision may file an appeal with the President within five (5) days of receiving the Designee's decision. Where practicable, within five (5) days of receiving the appeal, the President shall issue a written decision accepting, rejecting or modifying the Designee's decision. The President's decision is final provided that any corrective action and/or discipline imposed is subject to applicable collective bargaining agreements.

If the President is the Responding Party in an Affirmative Action Complaint, then the Chair of the College's Board of Trustees shall consider the appeal and issue the written decision.

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.

It is unlawful to retaliate against a student, employee or any other person in the College for filing a complaint or for cooperating in an investigation of a complaint. All parties to a complaint may have a personal advisor (for union employees this may be a union representative) assist them throughout the process.

Date Filed: _____ Date(s) of Alleged Discrimination: _____

A. Name (Print): _____

B. Check One: Student: _____ Employee: _____
Department/Division: _____

C. Type of alleged discrimination:

- | | | |
|--|---|--|
| <input type="checkbox"/> Race/Color | <input type="checkbox"/> Religion/Creed | <input type="checkbox"/> Age |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Gender | <input type="checkbox"/> Disability |
| <input type="checkbox"/> Sexual Harassment | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Genetic Information |
| <input type="checkbox"/> Maternity Leave | <input type="checkbox"/> Gender Identity | <input type="checkbox"/> Military Service |
| <input type="checkbox"/> Retaliation | Other: _____ | |

D. Name of individual(s) you believe discriminated against you: _____

E. List any witnesses: _____

APPENDIX B - NOTICE TO RESPONDENT

Date:

To: _____, Responding Party

From: _____, Affirmative Action Officer

Subject: Affirmative Action Discrimination Complaint

This is to notify you that on _____ a complaint alleging a violation of the College's Affirmative Action Policy was filed against you with the College. A copy of the complaint is attached, as is a copy of the complaint procedure. Within ten (10) days of your receipt of this notice, please submit to me a written response to the 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 the complaint procedure in accordance with the Affirmative Action Policy. Further, if any disciplinary sanctions are imposed as a result of an investigation under the Affirmative Action Policy, all such sanctions shall be regarded as an administrative action subject to all terms and conditions of applicable collective bargaining agreements or personnel policies.

All questions concerning this matter should be addressed to the Affirmative Action Officer. Further, all parties to a complaint may have a personal advisor (for union employees this may be a union representative) assist them throughout the process.