

**BOARD OF HIGHER EDUCATION**  
**REQUEST FOR COMMITTEE AND BOARD ACTION**

**COMMITTEE:** Fiscal Affairs and Administrative Policy      **NO.:** FAAP 07-30

**COMMITTEE DATE:** June 6, 2007

**BOARD DATE:** June 14, 2007

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**MASSACHUSETTS STATE COLLEGES' AFFIRMATIVE ACTION PLAN**

**MOVED:**            The Board of Higher Education hereby authorizes and approves the **Affirmative Action/Equal Opportunity/Diversity Plan** for **Massachusetts State Colleges**. Said plan shall have initial effect on July 1, 2007.

Authority:            Massachusetts General Laws Chapter 15A, Section 9w

Contact:             Peter H. Tsaffaras, Director of Employee Relations and  
Benefit Administration

**MASSACHUSETTS STATE COLLEGES**  
**AFFIRMATIVE ACTION/EQUAL OPPORTUNITY/DIVERSITY PLAN**

**BRIDGEWATER STATE COLLEGE**

**FITCHBURG STATE COLLEGE**

**FRAMINGHAM STATE COLLEGE**

**MASSACHUSETTS COLLEGE OF ART**

**MASSACHUSETTS COLLEGE OF LIBERAL ARTS**

**MASSACHUSETTS MARITIME ACADEMY**

**SALEM STATE COLLEGE**

**WESTFIELD STATE COLLEGE**

**WORCESTER STATE COLLEGE**

EFFECTIVE: JULY 1, 2007

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## **I. INTRODUCTION**

The Massachusetts State Colleges have carefully developed and outlined the major elements of this Affirmative Action/Equal Opportunity/Diversity Plan with the understanding that a successful plan requires more than the knowledge of laws, regulations and current government requirements.

It demands vision to fully comprehend what challenges we face in preparing our students for the twenty-first century. With this Plan, the State Colleges continue to take a step beyond and, both collectively and individually, commit themselves to the valuing of human dignity, and to the appreciation of the necessity of providing all members of the College community an experience which equips them to relate to all persons and groups in the increasingly global and diverse world in which we all live and work.

In addition to this Plan, the individual Colleges may develop supplemental campus plans that give more particular effect to the provisions of this Plan and that reflect consistently with this Plan and the mission, vision and strategic plans for their individual communities.

## **II. POLICY STATEMENT ON AFFIRMATIVE ACTION, NON-DISCRIMINATION AND DIVERSITY**

### INTRODUCTION

The Board of Higher Education of the Commonwealth of Massachusetts (“BHE”) is responsible, pursuant to Chapter 15A of the General Laws of the Commonwealth of Massachusetts, for the overall governance of the public higher education system, which includes the nine State Colleges. The BHE and the Boards of Trustees of the individual State Colleges maintain and promote a policy of non-discrimination on the basis of race, color, creed, religion, national origin, gender, age, disability, sexual orientation, gender identity, genetic information, marital status, , and veteran status.

This policy 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 State 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 discriminatory conditions, whether purposeful or inadvertent. The State 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 race, color, creed, religion, national origin, gender, sexual orientation, gender identity, genetic information, marital status, , age, disability or veteran status. 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 any of the Colleges 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 State Colleges are committed to a policy of affirmative action, equal opportunity, non-discrimination and diversity. The Colleges are committed to providing a learning, working and living environment for 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 socioeconomic, cultural, ethnic, racial and religious backgrounds of members of each College community enriches the institution and its various constituencies. The Colleges will not tolerate behavior based on bigotry, which has the effect of discriminating unlawfully against any member of the College community.

The State Colleges provide equal access to educational, co-curricular and employment opportunities at the College for all applicants, students and employees regardless of race, color, creed, religion, national origin, gender, sexual orientation, gender identity, genetic information, marital status, , age, disability or veteran status in compliance with all applicable laws, regulations and policies. All benefits, privileges and opportunities offered by the Colleges are available to students, employees and other persons having dealings with the institution on a non-discriminatory basis within the framework of applicable laws, rules, regulations and collective bargaining agreements. The Colleges are committed to taking a pro-active affirmative action posture with respect to the recruitment, selection and promotion of students and employees.

The purpose of the affirmative action component of this Plan is to establish a set of programmatic objectives that shall ensure that all individuals have an equal opportunity for enrollment and/or employment, without regard to race, color, religion, sex, national origin, disability or status as a Vietnam era or special disabled veteran. The intent of this Affirmative Action/Equal Opportunity/Diversity 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 the victims of such discrimination, but on the total academic, educational and societal system as well. It is not intended and should not be used to discriminate against any applicant, employee or student because of race, color, creed, religion, national origin, gender, sexual orientation, gender identity, genetic information, marital status, , age, disability or veteran status. In response to this recognition, the Colleges, through their Boards of Trustees and Presidents, fully endorse the course of action set forth in this Plan and shall oversee and monitor its implementation under the auspices of each College’s Campus Director and assigned personnel.

## SCOPE OF PLAN

Affirmative action, equal opportunity and diversity programs shall be viewed as an integral part of the mission and purpose of the State Colleges. This Plan, by its very nature, shall affect and impact not only personnel and admissions policies, but also relevant procedures and practices, which contribute to the academic and educational experiences of our students, and the employment opportunities throughout the Colleges.

The scope of this Plan shall include, but not be limited to, a review of: employee hiring, evaluation, promotion and retention; student admissions, recruitment and retention; student support services, including student activities, financial aid, counseling and placement; curriculum, including both a concern for academic support services and diversity within the curriculum; programmatic, support service and structural access for persons with disabilities; and equality of access for members of protected classes in all student services offerings, including, but not limited to, housing, athletic programs and financial assistance.

## DEFINITIONS

Definitions of terms relevant to discrimination, discriminatory harassment and retaliation, and other terms used in the administration and enforcement of this Plan, are found in Section VI on pages 7 to 9.

## GOALS AND TIMETABLES

The goals of the Affirmative Action/Equal Opportunity/Diversity Plan, and the timetables for their implementation, will be effected on an annual basis in accordance with the current strategic plan for the individual Colleges. Each College will review these goals on an annual basis. Programmatic efforts will be tailored to the needs expressed in the Plan, as well as ongoing needs of the individual Colleges.

## DURATION OF PLAN

This Plan shall take effect as soon as it is approved by the BHE and the individual Boards of Trustees for the Colleges, and shall remain in effect for the period determined by those Boards.

## ENFORCEMENT

The Campus Director will have the primary authority for the implementation, development and enforcement of the policies, programs and procedures contained in the Plan. He or she bears the responsibility for the preparation and execution of all affirmative action policies and programs. Details regarding the Campus Director's specific duties and responsibilities can be found at Appendix 1.

## INQUIRIES

Inquiries concerning the State Colleges' compliance with affirmative action, equal opportunity and diversity programs may be referred to each College's Campus Director.

## AMENDMENT OF PLAN

This Plan may be amended from time to time in accordance with such procedures as the Council of Presidents, with the approval of the BHE, may prescribe.

### **III. POLICY AWARENESS PROCEDURES**

#### DISSEMINATION

All policy statements regarding affirmative action, equal opportunity, non-discrimination and diversity at the State Colleges will be distributed to every office at the Colleges. A copy of all such policy statements will also be housed in each College's Library and Campus Director's Office. In addition, copies will be made available to the campus community and to the public upon request. Periodic meetings and workshops will be held with various segments of the campus community to assist their understanding of the Colleges' commitment to affirmative action, equal opportunity, non-discrimination and diversity.

#### POSTING

The Colleges' Policy Statement on Affirmative Action, Non-Discrimination and Diversity will be posted in areas customarily used for public announcements and on the Colleges' websites. Prospective employees and applicants for admission will be informed of this Policy Statement in all advertisements posted both on and off campus.

#### RECRUITING

All employment recruiting sources used by the Colleges will be informed of their commitment to affirmative action, equal opportunity, non-discrimination and diversity. Listings of current openings will be sent on a regular basis to appropriate sources for the recruitment and referral of applicants who are persons of color, women, Vietnam era or disabled veterans, persons with disabilities, and persons of diverse religions and national origins.

In addition, notices of position openings will be posted on campus and on the Human Resources sections of the Colleges' individual websites, so that all current employees are aware of opportunities for promotion or transfer.

#### CONTRACTORS AND VENDORS

The Colleges will notify all contractors, sub-contractors and vendors of the Colleges' responsibilities and commitments to affirmative action, equal opportunity, non-discrimination and diversity.

#### ADVERTISING

Selection for and participation in College employment is without regard to race, color, creed, religion, national origin, gender, sexual orientation, gender identity, genetic information, marital status, , age, disability or veteran status. An Affirmative Action/Equal Opportunity/Non-

Discrimination/Diversity statement will be placed in all appropriate College operational publications and advertisements.

#### COMMUNITY RELATIONS

The State Colleges will cooperate and work with local, state and federal government agencies and community groups, as well as national minority, multicultural, multiracial, disability, women's and veteran's organizations and other national groups that have equal employment opportunity objectives, for the purpose of developing significant access to equal opportunity for persons of color, women, Vietnam era or disabled veterans, persons with disabilities, and persons of diverse religions and national origins.

#### **IV. RESPONSIBILITY FOR THE IMPLEMENTATION OF THE AFFIRMATIVE ACTION/EQUAL OPPORTUNITY/DIVERSITY PLAN AND RELATED PROGRAMS, POLICIES AND PROCEDURES**

The final authority and ultimate responsibility for the implementation and development of the Affirmative Action/Equal Opportunity/Diversity Plan rests with the Presidents of the State Colleges. The Campus Director, however, has the responsibility for the overall development, administration and monitoring of all affirmative action programs, and all other policies, procedures and regulations pertinent to the implementation of this Plan. The Campus Director commonly reports to the President and bears the responsibility for the preparation and execution of all affirmative action policies and programs. Details regarding the Campus Director's specific duties and responsibilities can be found at Appendix 1.

All Vice Presidents, Deans, Directors, Program Coordinators, Department Chairs, and other supervisory personnel will be accountable for ensuring that affirmative action, equal opportunity and diversity are integrally tied to all actions and decisions for which they are responsible and which fall within the scope of the Affirmative Action/Equal Opportunity/Diversity Plan. A statement concerning such accountability will be added to all appropriate position descriptions. It shall be considered a regular function of faculty, librarians, administrators and supervisory staff that they be aware of goals and consult with the Campus Director prior to and in the course of those actions which may impact on the implementation of this Plan. In the event that a supervisor and/or the Campus Director identify problem areas that are impeding a College's efforts to meet its goals, they shall develop an action plan designed to move the College toward successful attainment of its objectives.

#### **V. AFFIRMATIVE ACTION HIRING PROCEDURES**

The procedures set forth in this Plan take into consideration both organizational limitations and opportunities with respect to current and future employees. The Plan calls upon all staff to engage in a major effort in order to fulfill the objectives of affirmative action and equal opportunity for all persons at all levels of employment, in compliance with all applicable collective bargaining agreements. Each Campus Director will monitor the employment policies of the College with respect to the areas of recruitment and appointment to vacant positions to assure compliance with the affirmative action/equal opportunity/diversity objectives of this Plan. The areas to be monitored should include, but not be limited to, pre-recruitment procedures, recruitment, selection,

appointments (permanent, acting, emergency and temporary), salary and benefits, and shall include employees of continuing education, grant funded programs and other appropriate areas.

#### AUTOMATED APPLICANT TRACKING

To reduce time and costs, the State Colleges may elect to use computerized or electronic systems that automate many of the processes associated with the employment application process. Such systems provide to employers customized on-line employment applications, the ability to pre-screen candidates, web-based distribution of applications to hiring managers, automatic notification to applicants regarding the status of their application, and information to applicants regarding new positions matching their skills and interest areas.

If the Colleges elect to implement an automated applicant tracking system, the College must comply with the Final Rule regarding internet applicants published by the Office of Federal Contract Compliance Programs (“OFCCP”), the federal agency that monitors the Colleges’ compliance with federal affirmative action requirements under Executive Order 11246. Under the Final Rule, the Colleges are required to: follow OFCCP’s definition of an “internet applicant;” retain certain electronic records; identify and collect, where possible, data regarding the race, gender, and ethnicity of each job applicant; and identify whether an application was received via the internet and other electronic means. OFCCP’s Final Rule applies when:

- an individual submits an expression of interest in employment through the internet or related electronic technologies (including, but not limited to, e-mail, resume databases, job banks or the Colleges’ websites);
- the College considers the individual for employment in a particular position;
- the individual’s expression of interest indicates that the individual possesses the basic qualifications for the position; and
- prior to receiving an offer on employment from the College, the individual at no point in the College’s selection process removes him or herself from further consideration or otherwise indicates that he or she is no longer interested in the position.

Under the Final Rule, the Colleges may limit their solicitation of race, ethnicity and gender status data to applicants falling under the above criteria. The Colleges, however, must retain records relating to expressions of interest submitted via the internet or related data technologies for any job seeker “considered” for a particular position, regardless of whether the job seeker meets the other criteria in the Final Rule. In other words, federal recordkeeping compliance is required whether the Colleges use internal or external resume databases (*e.g.*, Monster.com).

Additionally, any automated applicant tracking system implemented by the Colleges will comply with the requirements of the Americans with Disabilities Act of 1990 (“ADA”), Sections 503 and 504 of the Rehabilitation Act of 1973 (“Rehabilitation Act”) and Massachusetts General Laws Chapter 151B, for providing those with disabilities access to the system. Equal access to the system will be provided for applicants with disabilities, including the provision of alternative formats or access, such as JAWS or zoom text. The Colleges will provide technical support as

well as information for persons with disabilities to contact the Colleges to discuss their specific electronic application needs.

#### INSTITUTIONAL COMPLAINT PROCEDURES

The State Colleges have established specific internal complaint procedures to help resolve claims and complaints of discrimination, discriminatory harassment and retaliation on their campuses. The Colleges' Discrimination Complaint Procedures also serve as a system of review and resolution for both informal claims and formal complaints of discrimination in hiring. These Procedures specifically address claims and complaints of failure to accommodate persons with disabilities as prescribed by the ADA, the Rehabilitation Act, and Massachusetts General Laws Chapter 151B.

Any applicant for employment who believes that he or she has been a victim of discrimination in hiring may initiate an informal claim or formal complaint as outlined in the Discrimination Complaint Procedures, which are set forth in full at Appendix 2. Further advice or information regarding the Discrimination Complaint Procedures may be obtained by contacting the Campus Director of any State College.

## **VI. POLICY AGAINST DISCRIMINATION, DISCRIMINATORY HARASSMENT AND RETALIATION**

### INTRODUCTION

The mission of the State 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.

### DEFINITIONS

For the purposes of this Policy, the following terms are defined as follows:

1. Protected Classes. Characteristics or groups of persons protected from discrimination by law, including:
  - a. 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.

- b. Color. Variations in skin tone among persons of the same race.
- c. Religion. “Religion” and “creed” have the same or equivalent meaning: all religious and spiritual observances, practices, and sincerely held beliefs.
- d. National Origin. A “national origin group” or “ethnic group” is a group sharing a common language, culture, ancestry, and/or other similar social characteristics.
- e. Ethnicity. See National Origin.
- f. Persons of Color. Members of the following racial classifications: Black, American Indian/Native Alaskan, Asian/Pacific Islander, and Hispanic/Latino.
- g. Age. Persons 40 years of age or older.
- h. 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.
- i. Gender. A person’s sex, either male or female.
- j. 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.
- k. 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.
- l. Sexual Orientation. Actual or perceived heterosexuality, homosexuality or bisexuality, either by orientation or by practice.

- m. Marital/Parental Status. A person's status as single, married, parent or non-parent, where discrimination on these bases has disparately impacted against those of different protected classes, including gender and sexual orientation.
  - n. Vietnam Era Veteran Status. A person who served on active duty for a period of more than 180 days between Feb. 28, 1961, and May 7, 1975 in the republic of Vietnam or between Aug. 5, 1964, and May 7, 1975 in other regions, and who was not dishonorably discharged.
  - o. Specially Disabled Veteran Status. A person entitled to disability compensation under law administered by the Veteran's Administration for disability rated at 30 percent or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.
2. 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 (the result of an employment policy, practice, or procedure that, in practical application, but in the absence of a legitimate business function, has less favorable consequences for a protected class than for the dominant group), or disparate treatment (employment practices, such as tests or educational requirements, that are fair and neutral on their face, but which are applied or administered in an unequal manner).

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 might be based on sex, marital status, or both; discrimination against a transgender or transsexual individual might be based on sex or sexual orientation.

3. 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 Plan, speech or other expression constitutes harassment by personal vilification if it:

- a. is intended to insult or stigmatize an individual or a small number of individuals on the basis of their gender, race, color, disability, religion, creed, age, sexual

orientation, gender identity, genetic information, national origin, marital or veteran status; and

- b. is addressed directly to the individual or individuals whom it insults or stigmatizes; and
- c. makes use of insulting or “fighting” words or non-verbal symbols.

In the context of discriminatory harassment by personal vilification, insulting or “fighting” words or non-verbal symbols are those that, by their very utterance, tend to incite to an immediate breach of the peace, and that are commonly understood to convey direct and visceral hatred or contempt for human beings on the basis of their gender, race, national origin, color, disability, religion, creed, age, sexual orientation, gender identity, genetic information, marital or veteran status.

For purposes of this Plan, 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 Plan.

- 4. 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 Plan as proved discrimination under the original claim, complaint or charge.

#### 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.

1. Examples of discrimination, all of 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.
2. Examples of discriminatory harassment, all of 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.

3. Examples of retaliation, all of which are prohibited by this policy, include, but are not limited to:
  - a. Terminating an employee for expressing an intent to file or for filing a charge of discrimination.
  - b. Refusing to hire an employee for 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 or harassment.
  - 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.

#### CONDUCT THAT IS NOT PROHIBITED

The 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.

## INSTITUTIONAL COMPLAINT PROCEDURES

The State Colleges have established specific internal complaint procedures to help resolve claims and complaints of discrimination, discriminatory harassment, and retaliation on their campuses. The Colleges' Discrimination Complaint Procedures also serve as a system of review and resolution for both informal claims and formal complaints of discrimination, discriminatory harassment, and retaliation on any of the above-mentioned protected bases. Any applicant for employment or admission, any employee, and any other member of the College community who believes that he or she has been a victim of discrimination in hiring, admission or employment may initiate an informal claim or formal complaint as outlined in the College's Discrimination Complaint Procedures. Likewise, any student who believes that he or she has been discriminated against may utilize the Discrimination Complaint Procedures.

Further advice or information may be obtained by contacting the Campus Director on each campus. The Discrimination and Complaint Procedures are contained in full at Appendix 2.

### 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 the Discrimination Complaint Procedures, subject to the provisions of any relevant collective bargaining agreements. This duty includes, among other things, speaking with the Campus Director or other investigator and voluntarily providing all documentation which relate 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.

### 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 Campus Director 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 Campus Director as soon as he or she becomes aware of it.

Similarly, all students, faculty, staff, administrators, and others having dealings with the institution are encouraged to report to the Campus Director 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 Campus Director.

## FALSE CHARGES

Filing a false charge of unlawful discrimination, discriminatory harassment or retaliation is a serious offense. If an investigation reveals that a complainant knowingly filed false charges, the College may 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.

## VII. POLICY AGAINST SEXUAL HARASSMENT

### INTRODUCTION

The State Colleges prohibit any member of the College community, male or female, from sexually harassing another employee, student or other person having dealings with the Colleges. The Colleges are committed to providing a working, living and learning environment that is free from all forms of sexually abusive, harassing or coercive conduct. This policy seeks to protect the rights of all members of the College community (faculty, librarians, administrators, staff, students) and other persons having dealings with the Colleges, to be treated with respect and dignity.

Sexual harassment is a form of behavior that fundamentally undermines the integrity of academic and employment relationships. It is of particular concern within educational institutions where all members of the community, including students, faculty, librarians, staff and administrators, are connected by strong bonds of intellectual interdependence and trust. Both the federal courts and the Equal Employment Opportunity Commission have ruled that sexual harassment constitutes sex discrimination as defined by Title VII of the Civil Rights Act of 1964. Sexual harassment has also been judged to be prohibited sex discrimination under Title IX of the Higher Education Amendments of 1972 as amended, and under Chapters 151B and 151C of the Massachusetts General Laws.

### DEFINITION

The State Colleges, in response to the issue of sexual harassment, provide the following definition, which applies to any individual of either sex who participates in the College community as a student, faculty member, teaching assistant, resident assistant, librarian, administrator, staff member, vendor, contractor, patron, visitor or other person having dealings with the institution:

Sexual harassment consists of unwelcome verbal, non-verbal and/or physical behavior of a sexual nature which has the effect of interfering with a person's academic, employment or other status, or of creating a sexually intimidating, hostile or offensive environment. Sexual harassment incidents can involve a male harasser and a female victim, a female harasser and a male victim, and also same gender same sex harassment and harassment because of gender identity or orientation.

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;
2. submission to, or rejection of, such conduct by an individual is used as a basis for academic or employment decisions affecting that individual;
3. such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating a sexually intimidating, hostile or offensive employment, educational or living environment.

#### EXAMPLES OF SEXUAL HARASSMENT

Behaviors that, either alone or in combination, may constitute sexual harassment under this Policy include, but are not limited to, the following:

1. verbal harassment or abuse on the basis of sex;
2. direct or indirect propositions of a sexual nature;
3. repeated unsolicited propositions for dates and/or sexual intercourse;
4. demands for sexual favors accompanied by implied or overt threats or that submission to sexual advances may favorably affect employment, work status, promotion, grades, or letters of recommendation, or that rejection of sexual advances may produce a negative effect;
5. subtle pressure for sexual activity, one element of which may be conduct such as repeated or unwanted staring;
6. sexual slurs, sexual innuendos, and other comments about an individual or group's clothing, body, weight, body shape, size or figure;
7. continuous idle chatter of a sexual nature and graphic sexual descriptions;
8. discussing one's sexual activities, practices or experiences;
9. asking another person about their sexual activities, practices or experiences;
10. offensive and persistent "risqué" jokes or jesting and kidding about sex or gender-specific traits;
11. suggestive or insulting sounds such as whistling, wolf-calls, or kissing sounds;
12. sexually provocative compliments about a person's clothes or the way their clothes fit;
13. comments or questions about the sensuality, sexuality, gender identity or sexual orientation of a person, or his or her spouse or significant other;

14. pseudo-medical advice such as “you might be feeling bad because you didn’t get enough”;
15. telephone calls of a sexual nature;
16. “staged whispers” or mimicking of a sexual nature about the way a person walks, talks, sits, etc.;
17. distribution or display of objects, written or graphic materials that are of a sexual nature, such as cartoons, pictorial erotica, nude photographs or posters (such as a nude magazine centerfolds) for no legitimate academic purpose;
18. invading another’s “personal space”;
19. sexual looks such as leering and ogling with suggestive overtones;
20. lewd gestures, such as hand or sign language to denote sexual activity, licking lips or teeth, or holding or eating food provocatively;
21. continuous “pet” name calling, such as “baby,” “sweetie” or “honey”;
22. referring to men in general as “dogs” or “swine” or to women as “bitches” or “chicks”;
23. persistent and unwelcome flirting;
24. attempted or actual kissing or fondling;
25. unnecessary touching, patting, pinching or physical touching of any kind that is sexual in nature; and/or
26. physical sexual assault, coerced sexual intercourse, attempted rape or rape.

A pattern of any of the above-listed behaviors that would tend to bring discomfort or humiliation to a reasonable person at whom the behaviors were directed may constitute sexual harassment.

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.

#### CONSENSUAL RELATIONSHIPS

Under this Policy, consenting romantic and sexual relationships between faculty and student, librarian and student, administrator and student, classified staff member and student or supervisor and employee are deemed unprofessional. Because such relationships interfere with or impair required professional responsibilities and relationships, they are looked upon with disfavor and are strongly discouraged under this Policy.

Codes of Ethics for most professional associations forbid professional-client sexual relationships. In this context, and for purposes of this Policy, the professor-student relationship is properly regarded as one of professional and client. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in giving praise or blame, grades, recommendations for further study and employment, and other benefits or opportunities diminish the student's actual freedom of choice such that relationships thought to be consensual may in fact be the product of implicit coercion. Many elements of the administrator-student, librarian-student, classified staff member-student and the supervisor-employee relationship are similar to those of the professor-student relationship because of a similar imbalance of power and a similar need for trust. For purposes of this Policy, therefore, these relationships are also discouraged and looked upon with disfavor.

Faculty, librarians, administrators, classified staff members and supervisors are warned against the dangers of apparently consensual relationships. A faculty member, librarian, administrator, or classified staff member who enters into a romantic or sexual relationship with a student, or a supervisor who enters into such a relationship with an employee, where a power differential exists, must realize that, if a charge of sexual harassment is subsequently lodged, it will be exceedingly difficult to disprove the claim on the grounds of mutual consent. Because that is so, it should be understood that relationships of this kind pose serious professional risks to any who enter into them.

#### INSTITUTIONAL MEASURES TO CONFRONT SEXUAL HARASSMENT

Whenever it has been properly determined that sexual harassment has occurred, the Colleges will take prompt and corrective action, including appropriate disciplinary action. In determining whether the alleged conduct constitutes sexual harassment, the Colleges will look at the entire record and the circumstances, such as the nature of the sexual conduct and the context in which the alleged incidents occurred, and will make a decision on a case-by-case basis.

The College is 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.

#### INSTITUTIONAL COMPLAINT PROCEDURES

The State Colleges have established specific internal complaint procedures to help resolve claims and complaints of discrimination on their campuses. These procedures will also specifically address claims and complaints of sexual harassment. The Discrimination Complaint Procedures serve as a system of review and resolution for both informal claims and formal complaints of sexual harassment in hiring, employment and education. Any applicant for admission or

employment, or any other member of the College community who believes that he or she has been a victim of sexual harassment may initiate an informal claim or formal complaint as outlined in the Discrimination Complaint Procedures, which are located at Appendix 2. Further advice or information may be obtained by contacting the Campus Director on the individual campus.

#### DUTY TO REPORT

Federal and state laws and regulations place certain requirements on the State Colleges regarding the reporting of sexual harassment. No member of the College community who receives a complaint of sexual harassment 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 Campus Director 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 sexual harassment from a student or other member of the College community has a legal duty to report the complaint to the Campus Director as soon as he or she becomes aware of it.

Similarly, all students, faculty, staff, administrators, and others having dealings with the institution are encouraged to report to the Campus Director any conduct of which they have direct knowledge and which they in good faith believe constitutes sexual harassment 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 Campus Director.

### **VIII. POLICIES FOR REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES**

The State Colleges are committed to providing equal access to employment and educational opportunities for otherwise qualified persons with disabilities. The State Colleges recognize that individuals with disabilities may need reasonable accommodations to have equally effective opportunities to participate in or benefit from educational programs, services, activities and employment.

#### DEFINITIONS

For the purposes of this Policy, the following definitions shall apply:

1. Individual with a Disability. An individual with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

Major life activities are activities that an average person can perform with little or no difficulty such as walking, breathing, seeing, hearing, speaking, learning, and working.

2. Qualified Individual with a Disability. A qualified employee or applicant with a disability is someone who satisfies skill, experience, education, and other job-related

requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position. A qualified student with a disability is someone who possesses the skills necessary to complete the essential academic requirements of a course and/or degree program, with or without reasonable accommodation.

The essential functions of a position are those job duties that are primary or intrinsic, not marginal or incidental, to a given position. Job duties are the tasks that must be accomplished, not the manner in which they are accomplished.

The essential academic requirements of a course and/or degree program are the knowledge and skills that must be acquired and demonstrated in order for a student to successfully meet the learning objectives of the course or degree program.

3. Reasonable Accommodation. 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 Colleges are not required to lower production 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.

4. Undue Hardship. The Colleges are required to make reasonable accommodations to qualified individuals with disabilities unless doing so would impose an undue hardship on the operation of the Colleges' business. Undue hardship means an action that requires significant difficulty or expense when considered in relation to factors such as a business' size, financial resources, and the nature and structure of its operation.
5. Interactive Process. State and federal laws define the "interactive process" as an on-going communication between an employer and an applicant or employee with a known disability in an effort to provide reasonable accommodation. Both the employee and the employer must engage in the interactive process. The employee and employer must communicate directly with each other to determine essential

information and neither party can delay or interfere with the process. In order to be effective, the process should include the employee, the employee's supervisor, and the employee's health care provider.

#### EDUCATION OF PERSONS WITH DISABILITIES

The State Colleges will examine all existing admissions, student support and other student life policies, practices and facilities to assure that they do not disparately treat or impact otherwise qualified persons with disabilities. Where such disparity is found, it will be corrected as quickly and completely as is reasonable under existing financial constraints.

In accordance with the requirements of state and federal law, the State Colleges will provide necessary reasonable accommodations, auxiliary aids and academic adjustments (including support services) to otherwise qualified students with disabilities to assure equal access to its programs, facilities and services. Reasonable accommodations will also be afforded to applicants for admission who have a disability to enable them to adequately pursue all opportunities for enrollment in the Colleges' programs of study.

#### EMPLOYMENT OF PERSONS WITH DISABILITIES

The State Colleges will examine all existing employment policies, practices and facilities to assure that they do not disparately treat or adversely impact otherwise qualified persons with disabilities. Where such disparity is found, it will be corrected as quickly and completely as is reasonable under existing financial constraints.

In accordance with the requirements of state and federal law, and through the interactive process, the State Colleges will afford reasonable accommodations to any otherwise qualified employee with a disability to enable the employee to perform the essential functions of the job. Reasonable accommodations will also be afforded to applicants for employment who have a disability to enable them to adequately pursue a candidacy for any available positions.

#### PROCESS BY WHICH TO REQUEST ACCOMMODATIONS

Any member of the College community seeking reasonable accommodation for a disability may contact the Campus Director for more information.

#### INSTITUTIONAL COMPLAINT PROCEDURES

The State Colleges have established specific internal complaint procedures to help resolve claims and complaints of discrimination, discriminatory harassment, and retaliation on their campus. These procedures will also specifically address claims and complaints of failure to accommodate or to provide appropriate auxiliary aids and academic adjustments for a person with disabilities as prescribed by the ADA, the Rehabilitation Act, and Massachusetts General Laws Chapters 151B and 151C. The Discrimination Complaint Procedures serve as a system of review and resolution for both informal claims and formal complaints of disability discrimination. Any applicant for employment or admission, or any member of the College community who believes that he or she has been a victim of disability discrimination may initiate an informal claim or formal complaint as outlined in the Discrimination Complaint Procedures, the full text of which is located at

Appendix 2. Further advice or information may be obtained by contracting the Campus Director of each College.

## **IX. CONTRACTING AND PURCHASING**

### EQUAL OPPORTUNITY VENDORS

When selecting contractors, suppliers, and vendors of goods and services, including goods and services secured in connection with construction projects, the State Colleges will offer equal opportunity to all qualified persons and entities and will not discriminate on the basis of race, creed, religion, color, national origin, gender, sexual orientation, gender identity, genetic information, age, disability, veteran or marital status.

The Colleges shall seek to locate and shall encourage the use of minority and female contractors, subcontractors, vendors, and suppliers. The Colleges will identify businesses primarily operated by members of such protected classes with the help of agencies such as the State Office of Minority Business Assistance in order to encourage bids and proposals from potential contractors, vendors and suppliers.

### EQUAL EMPLOYMENT OPPORTUNITY

The Colleges adhere to and enforce the non-discrimination clause contained in Section 202 of Executive Order 11246, as amended. Pursuant hereto and pursuant to their own policies against discrimination, the Colleges requires that all persons and entities with which they contract for the provision of goods and services shall provide equal opportunity for all persons without regard to race, color, religion, creed, gender, national origin, sexual orientation, gender identity, genetic information, disability, age, or veteran or marital status.

The Colleges further adhere to and enforce a policy of requiring that all persons and entities with which they contract for the provision of goods and services shall provide equal employment opportunity without regard to race, color, religion, creed, gender, or national origin, sexual orientation, gender identity, genetic information, disability, age, or veteran or marital status.

### CONTRACTOR COMPLIANCE

Prior to the awarding of any contract, the Colleges shall require that the contractor provide written assurance of its compliance with applicable state and federal laws and regulations, including the provisions of this Policy, prohibiting discrimination in employment.

The Colleges shall require that every contract made on or after July 1, 1996, for the purchase of goods and services contain the following provisions.

“During the performance of this Agreement, the Contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment because of race, creed, religion, color, gender, sexual orientation, age, disability, veteran status, marital status, or national origin.

2. The Contractor will comply with the provisions of the Governor's Code of Fair Practices, with Chapter 151B of the General Laws of Massachusetts, with the Americans with Disabilities Act and with all other applicable state and federal laws barring discrimination in employment, and with Section VI of the Massachusetts State Colleges' Affirmative Action/Equal Opportunity/Diversity Plan.
3. In the performance of this Agreement, the Contractor shall take affirmative action to employ minority and female subcontractors, vendors and suppliers.
4. The College may at any time require the Contractor to supply it with such data, as it shall reasonably require for purposes of determining whether the Contractor is adhering to the above-described prohibitions against discrimination in employment.
5. In the event that the Contractor shall have failed to comply with the requirements contained in any of foregoing clauses 1, 2, 3 and 4, the College may enforce such compliance by withholding part or all of any payment then due until such time as the Contractor complies with any such requirement, and/or by cancelling, terminating or suspending the whole or any party of this Agreement. Nothing herein contained shall bar the College from pursuing such other lawful recourse as it may have to enforce compliance with the above-described requirements and to recover damages for their breach."

The Colleges reserve the right to disqualify as a contractor any person or entity that fails to adhere to the prohibitions against the discrimination, discriminatory harassment and retaliation in employment that are contained in Section VI of this Plan.

#### CONTRACTOR CONDUCT

All contractors, vendors and suppliers of goods and services shall be required, during any period when they or their agents or employees are present at the Colleges, to adhere to standards of conduct that are consistent with this Policy, and all such contractors, vendors and suppliers, their agents and employees shall refrain from acts or conduct, including verbal acts constituting harassment by personal vilification or conduct, that constitute harassment of any person by reason of such person's race, color, creed, religion, national origin, gender, sexual orientation, gender identity, genetic information, marital status, , age, disability or veteran status. The Colleges shall require every contractor, vendor, and supplier to instruct its agents and employees concerning the requirements of this paragraph, and to take actions including disciplinary actions, to correct any violation thereof.

#### INSTITUTIONAL COMPLAINT PROCEDURES

The State Colleges have established specific internal complaint procedures to help resolve claims and complaints of discrimination, discriminatory harassment, and retaliation on their campuses. The Colleges' Discrimination Complaint Procedures also serve as a system of review and

resolution for both informal claims and formal complaints of discrimination, discriminatory harassment, and retaliation on the basis of any person's membership in a protected class as set forth in the Colleges' Policy Against Discrimination, Discriminatory Harassment, and Retaliation at Section VI of this Plan. Any member of the College community or any applicant for employment or admission who believes that he or she has been a victim of discrimination, discriminatory harassment or retaliation by a vendor or contractor may initiate an informal claim or formal complaint as outlined in the Discrimination Complaint Procedures. Further advice or information may be obtained by contacting the Campus Director on each State College campus. The Discrimination and Compliant Procedures are contained in Appendix 2.

## **X. CONCLUSION**

In developing and presenting this Plan for approval to the BHE, the State Colleges have committed themselves to institutional change in order to provide maximum access to a college education and college experience which equips all of our students to live and work in our diverse world. The State Colleges believe that access to affordable higher education is an integral part of their mission.

With this Plan, the State Colleges commit themselves not only to providing each student and employee a safe, yet exciting academic and living environment, where each member of the community is valued as an individual, whose racial, ethnic, cultural, religious, gender, sexual orientation, age, disability or socioeconomic status make her or him a valued member of a diverse community of pluralism, but in doing so, to fully prepare our students for the great diversity of the larger world. If this Plan is fully implemented, we will have moved beyond merely prohibiting the violation of human dignity and civility to the fulfillment of our mission of providing accessible higher education to the increasingly diverse population of the Commonwealth.

We commit ourselves to this effort.

# **APPENDIX 1**

## **POSITION DESCRIPTION: CAMPUS DIRECTOR, AFFIRMATIVE ACTION/EQUAL OPPORTUNITY AND DIVERSITY**

### GENERAL STATEMENT OF DUTIES

The Campus Director is responsible for providing campus-wide leadership to promote affirmative action, equal opportunity and diversity on campus. The Campus Director works closely with the President, Vice Presidents, Department Chairs, Program Coordinators and Directors in the implementation, monitoring and evaluation of the Colleges' Affirmative Action/ Equal Opportunity/Diversity Plan. He or she serves as the Title II, Section 504, and Title IX Coordinator and the ombudsman for all complaints of discrimination, including discriminatory harassment, and retaliation. He or she works with faculty and student organizations to introduce a variety of multicultural issues across the curriculum and across the campus.

**SUPERVISION:** Reports directly to the President or the President's designee.

**SUPERVISION EXERCISED:** Exercises supervision over assigned professional and non-professional personnel.

### RESPONSIBILITIES:

1. Provides leadership in planning and organizing events and programs to increase the awareness of diversity on campus.
2. Works with department chairs, program coordinators and faculty to infuse issues related to diversity into the curriculum.
3. Develops plans and policies to recruit and employ members of protected classes through affirmative action and equal employment opportunity programs.
4. Responsible for monitoring, implementing and evaluating recruitment to insure a policy of non-discrimination, affirmative action, equal employment/educational opportunity and diversity.
5. Serves as ex-officio member of the College's Affirmative Action/Equal Opportunity/Diversity Advisory Committee to promote the value of diversity, multi-culturalism and compliance with equal opportunity in learning and employment.
6. Works closely with the Vice Presidents, Directors, Program Coordinators and Department Heads to develop and implement program initiatives designed to increase diversity among faculty, staff and students.
7. Plans and develops policies and procedures regarding the implementation of the ADA and the Rehabilitation Act.

8. Responsible for investigating all complaints of discrimination, discriminatory harassment, and retaliation filed pursuant to the Colleges' Discrimination Complaint Procedures, which may include cases of sexual harassment, gender discrimination, race discrimination, age discrimination, and access for staff and students with disabilities. Responsible for communicating all relevant information to appropriate personnel on campus regarding the investigation process.
9. Acts as a representative of the College on claims presented to state and federal agencies.
10. Reviews all College policies for potential discriminatory impact.
11. Communicates information on laws, regulations and policies on affirmative action and equal opportunity to members of the College community.
12. Exercises sign-off authority on all personnel actions.
13. Assists in identification of problem areas with respect to this Plan and makes recommendations for remedial actions.
14. Implements auditing and reporting systems with respect to this Plan.
15. Assumes additional support duties assigned by the President.

QUALIFICATIONS:

1. Possesses academic credentials and/or professional experience suitable to fulfill the duties and responsibilities of the position.  
  
Preferred: Masters degree or equivalent.  
  
Minimum: Bachelors degree with at least ten (10) years of professional experience in affirmative action, equal employment opportunity and diversity.
2. Possesses knowledge of higher education principles, practices and procedures.
3. Possesses experience in developing and implementing policies and procedures regarding affirmative action, equal employment opportunity and diversity.
4. Possesses professional competence as an administrator, as evidenced by professional growth and recognition thereof by professional colleagues.

\*This Position Description is illustrative and not necessarily exhaustive.

## **APPENDIX 2**

### **DISCRIMINATION COMPLAINT PROCEDURES**

#### **A. INTRODUCTION**

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

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

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

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

#### **B. APPLICATION**

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

These complaint procedures may be used to address alleged discriminatory acts or acts of discriminatory harassment or retaliation that violate the policies and regulatory procedures set forth by the BHE, the Boards of Trustees of the State Colleges, or the requirements of Titles VI and VII of the Civil Rights Act of 1964; Title VI of the Civil Rights Act of 1968; Titles I and II 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; and other applicable local, state and federal constitutions, statutes, regulations and executive orders.

The College will promptly respond to all claims or complaints of discrimination, discriminatory harassment and retaliation, with the intention to fully, quickly and adequately resolve the claim/complaint on an internal basis and to prohibit further occurrences. Individuals have the right to file charges of unlawful discrimination with the appropriate government agency with or without first utilizing these Discrimination Complaint Procedures. Such agencies include:

U.S. Department of Education/Office for Civil Rights  
33 Arch St., Suite 900  
Boston, Massachusetts 02110-1491  
617-289-0111

U.S. Equal Employment Opportunity Commission  
John F. Kennedy Federal Building, Rm. 475  
Government Center  
Boston, Massachusetts 02203-0506  
617-565-3200  
TTY: 617-565-3204

Massachusetts Commission Against Discrimination  
One Ashburton Place, Rm. 601  
Boston, Massachusetts 02108  
617-727-3990 (x588 for TTY)

## C. INITIATING THE COMPLAINT PROCEDURE

### 1. Time Limits

This procedure is designed to promote the speedy investigation and resolution of complaints. The various steps of these procedures contain time limits that are measured in “working days.” For purposes of these procedures, the definition of the term “working days” shall be days when the administrative offices of the College are regularly open for business. Holidays, weekends, snow

days and other days when the College is closed for any other reasons will not be counted. In making a determination concerning the extension of time limits under these procedures, the Campus Director or other officer charged with the investigation of complaints under these procedures, the Senior Area Administrator and/or the President will apply a standard of reasonableness, having regard, when appropriate, to academic recesses and semester breaks.

## 2. Acceptance of Complaints

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

### D. COMPLAINT PROCEDURES

#### 1. Informal Complaints

##### a. Preliminary Steps

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

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

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

- a. explaining the avenues of recourse that are available;
- b. providing information about the applicable federal and state laws and regulations;
- c. informing the complainant of the right to file charges with the appropriate government agency, as well as the need to meet applicable time requirements for such filing;
- d. explaining the College's complaint process;
- e. determining whether the complaint procedures are applicable;
- f. informally investigating complaints made on an anonymous basis;

- g. mediating the complaint; and/or, when requested;
- h. properly completing the Discrimination Complaint Form.

An individual may seek to proceed with an informal complaint on an anonymous basis. While the State Colleges cannot guaranty confidentiality, if a complainant has not authorized the release of his or her name for the purposes of the College's investigation and possible informal resolution of the complaint, the College shall take all measures practicable to prevent disclosure of the complainant's identity in the course of its informal investigation. The Campus Director or other designated officer shall maintain a confidential record of all proceedings in which a complainant requests anonymity. If the complainant subsequently elects to make a formal complaint, the confidential record of the informal investigation may be disclosed and used in addressing the formal complaint. This possibility should be disclosed to the person against whom an informal complaint is made if he or she is interviewed in connection with the processing of the informal complaint.

Whether or not the complainant has authorized the release of his or her name, the Campus Director or other designated officer must also take care to protect the accused from inappropriate disclosure of any pending claims.

If the College believes it is appropriate that the Complaint Procedures be initiated without informal investigation, or if the person filing the complaint does not wish to mediate the complaint in accordance with the procedure set forth below, the complaint shall be handled under the Formal Complaint process.

#### b. Mediation

Separate from the informal investigation process, a complainant may seek mediation of his or her complaint. Mediation is a process by which both parties, the complainant and the accused, agree to seek informal resolution of the complaint. In mediation, the Campus Director or other designated officer serves as a facilitator between the parties. Mediation is a confidential process. Each party must maintain the confidentiality of mediation, and neither party nor the College may rely on any information obtained through mediation in any subsequent investigation or procedure.

The facilitator does not have the authority to impose a settlement on the parties. Both parties must agree to any settlement or resolution of the complaint. If mediation does not result in a mutually agreeable settlement or resolution, the complainant has the option of pursuing a formal complaint in accordance with the procedures set forth as follows.

## 2. Formal Complaints

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

of the procedure through the written agreement of the parties and with the approval of the Campus Director or other designated officer at the institution.

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

a. Step I: Designated Office

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

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

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

- (1) Determine whether the complaint has been filed in accordance with the provisions of these procedures;
- (2) Determine whether the complaint alleges discrimination or discriminatory harassment on the basis of race, color, creed, religion, national origin, gender, sexual orientation, gender identity, age, disability, veteran status, marital status, , or genetic information or alleges retaliation;
- (3) Investigate the complaint by taking, at a minimum, the following steps:
  - (a) providing a copy of the formal complaint to the person accused;
  - (b) requesting and considering the response of the person accused;
  - (c) reviewing relevant documents and, at the discretion of the designated officer, interviewing of the persons identified by either party as ones having information pertinent to the allegations;
  - (d) collecting further evidence relevant to the investigation;

- (e) presenting the evidence to each party and considering any rebuttal;  
and
  - (f) such other steps as the designated officer believes are necessary.
- (4) Attempt to resolve the complaint to the mutual agreement of the parties and the designated officer. If such agreement is reached, it will be reduced to writing and the designated officer will notify the parties, the Senior Area Administrator and the President of the closure of the complaint file.
- (5) If a resolution is not reached, the designated person will provide a Statement of Findings and Recommendations to the parties, the Senior Area Administrator and the President.

If the Campus Director or other designated office determines that more than thirty (30) days are needed, he or she will notify the parties of the anticipated completion date of this Step.

If, upon receipt of the Statement of Findings and Recommendations, either party takes exception, he or she may appeal to Step II, by notifying the Campus Director or other officer issuing the Statement of Findings and Recommendation in writing and stating the basis of the Appeal within ten (10) working days of her/his receipt of the Finding. In such cases, a copy of the entire Step I record and the Letter of Appeal will be transmitted to the Senior Area Administrator, with a copy to the President.

If no appeal has been filed, the Campus Director or other designated officer will pursue one of the following courses at the end of the ten (10) day period:

If no finding of violation has been made and/or no remedy has been recommended, the designated officer will issue a Statement of Closure to the parties, with a copy to the Senior Area Administrator and the President.

OR

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

**b. Step II – Senior Area Administrator**

Unless otherwise determined by the President, the Senior Area Administrator responsible for hearing appeals at Step II is the person who has overall responsibility for the supervision of the individual accused in the complaint and who reports to the President. If the accused's supervisor is the President, the President will appoint a designee to serve in her/his stead. In some cases, the Senior Area Administrator may choose to appoint another high level administrator to serve as designee. For

complaints arising between students in both the Day College and the Divisions of Graduate Education and Continuing Education and Special Programs, the President will designate the person/persons to serve as the Senior Area Administrator to hear appeals under Step II of these procedures.

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

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

If the Senior Area Administrator determines that more than fifteen (15) days are necessary, he or she will notify the parties of the anticipated completion date.

If, upon receipt of the Senior Area Administrator's Statement of Findings and Proposed Remedy, either party takes exception, he or she may appeal to Step III, stating the basis of the appeal, by notifying the Senior Area Administrator and the Campus Director or other designated Step I officer in writing within ten (10) working days. In such cases, the Senior Area Administrator will transmit a copy of the entire Step I and Step II records, and the Letter of Appeal to the President.

If no appeal has been filed, the Senior Area Administrator will pursue one of the following courses at the end of the ten (10) day period:

If no finding of violation has been made and/or no remedy has been recommended, the Senior Area Administrator will issue a Statement of Closure to the parties, with a copy to the designated person and the President.

OR

If a finding of violation has been made and, if a remedy has been proposed which can be effected by the Senior Area Administrator, he or she will give effect to such remedy and will issue a Statement of Resolution to the parties, with a copy to the Campus Director or other designated Step I officer.

OR

If a finding of violation has been made and, if a remedy has been proposed which must be effected by the President, the Senior Area Administrator will issue a Statement of Resolution and a Recommendation to Effect Proposed Remedy to the parties, with a copy to the President and the Campus Director or other designated Step I officer.

c. Step III – President

Unless the President is personally charged under these procedures, in which case the procedures under the Complaints Against Institutional Officers section of these procedures will apply, or disqualifies her/himself, the President will be the sole Step III Appeal Officer.

The President will promptly consider the complaint and will, within ten (10) working days of receipt of the Step I and Step II records and the Letter of Appeal:

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

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

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

#### 4. Application Of Time Limits

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

#### E. COMPLAINTS AGAINST INSTITUTIONAL OFFICERS

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

#### F. RETALIATORY ACTION PROHIBITED

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

#### G. REMEDIAL ACTIONS

Should discriminatory harassment, retaliation or discrimination in treatment or effect be found to exist in any employment, educational or service decision, action, inaction or practice within the College, all appropriate corrective and/or disciplinary actions will be taken under the direction of the President, subject to any applicable collective bargaining agreement or other policies or procedures of the College.

#### H. RECORDKEEPING

A record of any claim or complaint submitted for consideration in accordance with these Discrimination Complaint Procedures will be kept on file in the College's Affirmative Action/Equal Opportunity/Diversity Office. This record will include a record of all steps of these procedures and will be the only file so maintained. The information contained in such files will be

considered confidential and will be accessed/used only for purposes of the enforcement of non-discrimination policies and by appropriate staff.

1. For a claim filed under the Informal Complaint Process, the record will contain at a minimum:
  - (a) a brief description of the claim, its allegations and the manner in which it was resolved; and
  - (b) if given, signed authorization to use the complainant's name in the investigation/resolution of the claim.
2. For a complaint filed under the Formal Complaint Process, the record will contain at a minimum:
  - a a copy of the complaint;
  - b. copies of all witness statements;
  - c. any documentary evidence or written statements presented by the parties; and
  - d a copy of the final disposition/resolution.

[SAMPLE]  
**DISCRIMINATION COMPLAINT FORM**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**E-mail Address:** \_\_\_\_\_

**Person against whom the allegation is made:** \_\_\_\_\_

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

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

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

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

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

\_\_\_\_\_  
**Signature of Complainant**

\_\_\_\_\_  
**Date**

## **APPENDIX 3**

### **GUIDELINES FOR CAMPUS POLICIES AGAINST DISCRIMINATION AND DISCRIMINATORY HARASSMENT**

The State Colleges have promulgated a policy prohibiting discrimination based on race, color, religion, creed, national origin, age, disability, gender, sexual orientation, gender identity, genetic information, and veteran and marital status, and affirming their collective commitment to a diverse learning and living environment where intolerance and bigotry are looked upon with disfavor. With this policy, the Colleges call upon the individual campuses to develop environments that embrace the accords of civility and human dignity as preconditions to the establishment of a community and that achieve optimum utilization of its human and intellectual resources.

These Guidelines are established in order to provide guidance to the individual campuses in their effort to develop and implement a policy consistent with the State Colleges' policy. The Guidelines consist of two components, required elements and suggested activities.

#### **REQUIRED ELEMENTS**

All individual College policies against discrimination and discriminatory harassment on the basis of membership in a protected class, particularly including those policies addressing discrimination and/or discriminatory harassment based on race, religion, and national origin, must contain certain elements, including:

1. A firm, unequivocal statement condemning discrimination and embracing multicultural/multiracial pluralism.
2. Procedures for the periodic and wide dissemination and publicity of the written policy.
3. A program of educational activities designed to enlighten faculty, librarians, administrators, staff and students with regard to:
  - developing an appreciation for diversity and pluralism;
  - developing greater awareness of the multiple ways in which racial, religious or cultural insensitivity and hostility may be manifested;
  - understanding ways in which the dominant society manifests and perpetuates racism; and
  - learning ways in which to prevent and combat racial, religious and cultural insensitivity and intolerance.
4. Determination of strategies and efforts to be undertaken for the purpose of institutional analysis to reveal institutional factors which give rise to racism and other forms of intolerance, insensitivity and discriminatory actions against members of protected classes. Remedial actions will be developed for all revealed institutional factors.

5. Incorporation of the spirit of this policy into the official campus code of conduct for students.
6. Specific procedures of recording reported incidents of racial, cultural or religious harassment or violence, events and related confrontations. Confidentiality will be afforded any reporting individual wishing to remain anonymous, but will be offered only insofar as it does not violate the rights of the respondents or charged parties.

#### SUGGESTED ACTIVITIES

Each College must determine the specific programs and activities it will carry out in the process of implementing the policy objectives. These activities should include those that would address deterrence, education, institutional analysis, monitoring, resource development, counseling, and sanctions for unlawful and/or prohibited behavior. What follows below represents many suggested activities, which the Colleges might consider undertaking in addition to those required above. This list is not intended to represent an exhaustive set of activities.

1. Develop approaches to incorporate racial and cultural sensitivity training as a component of staff and faculty development efforts;
2. Apprise incoming students of the policy and expected standards of behavior during orientation sessions;
3. Include a synopsis of the policy with all letters of acceptance sent to students;
4. Incorporate information on the policy during all student and employee recruitment efforts - these activities help make a college more attractive to students and employees interested in a safe environment;
5. Encourage and support research and scholarly activity which examines cultural diversity, racism, and strategies for combating racism;
6. Develop residential unit programs for promoting living and learning environments that foster interracial and intercultural awareness and sensitivity - films, speakers, workshops and forums within the dormitories help facilitate these promotions; and
7. Develop mechanisms to assist the institution in monitoring the racial climate at the College and identify areas needing remedial attention.

## **APPENDIX 4**

### **AFFIRMATIVE ACTION/EQUAL OPPORTUNITY/DIVERSITY ADVISORY COMMITTEE**

The President of each State College shall appoint an Affirmative Action/ Equal Opportunity/ Diversity Advisory Committee. This Committee shall consist of members representing the respective campus constituencies of administration, faculty and librarians, staff, and should attempt to include students. The Committee shall include appropriate representation of persons of color, women, and persons with disabilities. Each President shall consult with his or her Campus Director with respect to these appointments. The Campus Director of each State College shall be an ex-officio member of the Committee.

#### **PURPOSE**

The purposes of the Affirmative Action/Equal Opportunity/Diversity Advisory Committee are:

1. to serve as an advisory group to the President;
2. to make recommendations to the President as well as to respective campus and governance committees concerning effective implementation of the Colleges' Affirmative Action/Equal Opportunity/Diversity Plan;
3. to evaluate institutional compliance with respect to all affirmative action/equal opportunity/diversity programs and to recommend appropriate strategies to the President; and
4. to keep informed as to federal and state laws and regulations as well as institutional policies impacting affirmative action/equal opportunity/diversity.

#### **RESPONSIBILITIES**

The responsibilities of the Affirmative Action/Equal Opportunity/Diversity Advisory Committee include, but are not limited to, the following:

1. to establish its own rules of order with respect to election of officers, meeting times, quorum restrictions, etc.;
2. to furnish a report of its activities and recommendations to the President upon her/his request, but at least annually;
3. if the Campus Director deems it appropriate, to appoint a member to sit on a search committee as a non-voting member to assure that the search committee complies with affirmative action/equal opportunity policies and regulations; and
4. each College will develop its own policies with respect to additional functions or tasks which may be assigned to this Committee and with respect to Committee members sitting on search committees.

## **APPENDIX 5**

### **IDENTIFICATION OF PROBLEM AREAS**

On an annual basis, the Campus Director will analyze all affirmative action, equal opportunity, non-discrimination and diversity programs and all other policies, procedures, practices and regulations at the institution for the purpose of identifying problem areas and developing appropriate remedial actions.

The Campus Director will work with the President and/or the appropriate area administrator to resolve any problems identified.

## **APPENDIX 6**

### **AUDITING AND REPORTING**

Primary responsibility for monitoring compliance and auditing the implementation of the Affirmative Action/Equal Opportunity/Diversity Plan rests with the Campus Director of each College. The Campus Director shall furnish the President with progress reports and shall inform the President of practices, policies, procedures or regulations which may not be in compliance with the Colleges' Policy Statement on Affirmative Action, Non-Discrimination and Diversity.

On an annual basis, the Campus Director will review the progress being made toward achievement of the College's affirmative action goals. This review will include the goals and timetables, if appropriate, 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 which affect the implementation of this Plan. In addition, he or she will assure that the annual compliance reports, which may be required by state and/or federal agencies, are completed. The Campus Director will also annually review the Affirmative Action/Equal Opportunity/Diversity Plan, and the actions taken to ensure equal opportunity and affirmative action to all students and employees with disabilities.

To ensure compliance with this Plan, the Campus Director will review and evaluate the applicable policies, programs and activities related to job requirements, performance criteria, personnel benefit plans, student 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 Plan. All monitoring and analyses will be conducted as necessary to identify problem areas and provide recommendations to remedy them.

## **APPENDIX 7**

### **WORKFORCE AND UTILIZATION ANALYSIS**

As part of the Affirmative Action/Equal Opportunity/Diversity Plan, the State Colleges will conduct workforce and utilization analyses to determine the degree to which the Colleges' workforces are reflective of the availability of persons of color and women in the labor market. The workforce analysis will report the College employees by ethnicity and gender within job groups. Using the best data available at the time of analysis, the labor market availability of persons of color and women within the designated recruitment area is determined by job groups within the College's workforce.

Availability is defined as the percentage of persons of color or women that exist within the labor market. When this analysis shows that the rate of employment of persons of color or women in the College's workforce is below the availability in the labor market, underutilization exists. The declaration of "underutilization" does not amount to an admission of impermissible conduct. It is neither a finding of discrimination nor a finding of poor faith affirmative action efforts. Rather "underutilization" is a technical targeting term used exclusively by affirmative action planners who seek to apply good faith efforts to increase in the future the percentage of utilization of minorities and women in the workforce.

In those areas where underutilization has been identified, the College will make a good faith effort, consistent with the requirements of law, to address the underutilization. The Colleges' success in meeting this objective will be based upon the following factors: the degree of underutilization as revealed through the utilization analysis, the projected attrition in the workforce and projected staff increases.

A sample workforce analysis worksheet follows on the next page.

IPEDS Category	EEOC-6 Description	Ethnicity					
		Am. Indian Alaska Native	Asian/ Pacific Islander	Black, non- Hispanic	Hispanic/ Latino	White, non- Hispanic	Race/ Ethnicity Unknown
<b>1</b>	<b>Executive/Administ./ Managerial</b>						
	Men						
	Women						
	Total						
<b>2</b>	<b>Faculty/Professional</b>						
	Men						
	Women						
	Total						
<b>3</b>	<b>Inst. Residence Staff/ Research Fellows</b>						
	Men						
	Women						
	Total						
<b>4</b>	<b>Other Professional</b>						
	Men						
	Women						
	Total						
<b>5</b>	<b>Technical</b>						
	Men						
	Women						
	Total						
<b>6</b>	<b>Clerical/Secretarial</b>						
	Men						
	Women						
	Total						
<b>7</b>	<b>Skilled Craft</b>						
	Men						
	Women						
	Total						
<b>8</b>	<b>Service/Maintenance</b>						
	Men						
	Women						
	Total						
	<b>FT Staff Totals</b>						
	Men						
	Women						
	Total						
	<b>FT Faculty Totals</b>						
	Men						
	Women						
	Total						
	<b>Grand Total</b>						

## APPENDIX 8

### PROGRAMMATIC EFFORTS

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

#### COLLABORATIVE EFFORTS

In an effort to fully establish joint collaborative programs that will enhance the implementation of the State Colleges' Affirmative Action/Equal Opportunity/Diversity Plan, the Campus Directors of the individual Colleges will, as time and responsibilities permit, meet regularly, and meet with appropriate individual(s) in other consortiums of which they are members to work toward the development of joint programmatic initiatives including, but not limited to, the following:

1. Comprehensive Recruitment Contact Source

A comprehensive directory of recruitment resources will 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, which are known to be good sources for persons of color, women and persons with disabilities.

In addition, the directory will contain a listing of publications, such as newspapers, journals, periodicals and similar online resources, that publish job advertisements and have substantial circulation among persons of color, women and persons with disabilities. Trade or professional journals for each academic discipline and professional area will also be included.

2. Program of Professional Enrichment for Affirmative Action Professionals

In a collaborative effort, the Campus Directors of the State Colleges, working together or with other similar groups and/or consortiums, may develop a program of professional enrichment for affirmative action personnel, including workshops, seminars and other kinds of enrichment opportunities, which will assist them in the performance of their duties. Such enrichment opportunities should include training and other assistance concerning the relationship between collective bargaining and the requirements and implementation of the Affirmative Action/Equal Opportunity/Diversity Plan. 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. Seminar for Trustees, Presidents, Vice Presidents and Deans

Programs of affirmative action, equal opportunity and diversity are only as effective as the commitment to them at the trustee and executive level of the institution. In order to strengthen the commitment to and understanding of the goals of affirmative action, equal opportunity and diversity at the State Colleges, the Campus Directors, upon direction from the Presidents, will develop seminars to strengthen the understanding and sensitivity of the trustees and managers to the importance of their respective roles in fostering and effecting programs.

SPECIFIC CAMPUS COMPONENTS

Specific programmatic efforts determined by each of the State Colleges may take any of several forms: projects, programs, defined strategies, structured activities or other tactical steps that contribute to fulfillment of the institution's affirmative action, equal opportunity and diversity goals and objectives.

The Colleges will develop specific individual programs to assist in identifying and overcoming deficiencies, strengthening utilization rates of persons of color, women and persons with disabilities within the workforce and the student body, and providing increased opportunities for underrepresented groups, both in the area of employment and in the area of the student living and learning environment. Cross-cultural programming, sensitization of all members of the College community to the rights and needs of all persons of color, women, and persons with disabilities 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.