

**SUNY**  
**SCHENECTADY**  
COUNTY COMMUNITY COLLEGE

**Personnel**

*Board of Trustees Policy*

<b>SUBJECT:</b>  Procedure for Resolving Complaints of Discrimination, Harassment, and Retaliation	<b>Number:</b>  <b>3.15</b>
	<b>DATE:</b>  <b>August 17, 2020</b> <b>Resolution #20-71</b>
	<b>SUPERSEDES:</b>  Procedure for Resolving Complaints of Discrimination, Harassment, and Retaliation (previously approved by the Board of Trustees on November 19, 2018), Resolution #18-136

This procedure document directly relates to the Procedure for Resolving  
Complaints of Discrimination, Harassment, and Retaliation of the SUNY  
Schenectady Board of Trustees, as hereto attached.

## **Discrimination and Harassment Policy and Complaint Resolution Procedure for Students and Employees**

### **Policy on Non-Discrimination and Harassment**

In compliance with applicable federal, state and local laws, SUNY Schenectady County Community College (the “College”) does not discriminate on the basis of race, color, gender, gender characteristics and expression, sexual orientation, age, religion, actual or perceived national origin, actual or perceived gender identity, marital status, military or veteran status, physical or mental disability, status as a victim of a sexual assault, relationship violence, and/or stalking, genetic predisposition and carrier status, previous convictions as specified by law, or any other characteristics protected by applicable law (the “Protected Characteristics”), in any aspect of its admissions or financial aid programs, educational programs and related activities, or with respect to employment and advancement in employment. The College is committed to providing a work and learning environment that is free from discrimination and harassment by anyone based on an individual’s Protected Characteristics, or because the individual has engaged in activity protected by federal or state laws prohibiting discrimination.

Matters covered under these procedures in the employment relationship include, but are not limited to, recruitment, hiring, job assignment, compensation, promotion, discipline, termination, and access to benefits and training. Matters covered in the academic setting include, but are not limited to, admission, , allocation of financial aid, use of college facilities, and the assignment of grades.

The Title IX Coordinator has been designated by the College to coordinate its efforts to comply with applicable nondiscrimination laws and regulations. Questions or concerns regarding the scope and application of the College’s Discrimination and Harassment Policy and Complaint Resolution Procedure for Students and Employees (the “Policy”) should be directed to the Interim Title IX Coordinator Ms. Susan DiDonato, 518-381-1305.

In the absence of, or as an alternative to, the Title IX Coordinator, questions or concerns about this Policy may also be addressed to:

#### Employees

Edmund J. McTernan  
Executive Director of Human Resources  
Elston Hall, Room 125  
(518) 381-1331  
[mcternej@sunysccc.edu](mailto:mcternej@sunysccc.edu)

#### Students

Susan DiDonato Interim Title IX Coordinator  
(518) 381-1305 or extension 1187 [didonas@sunysccc.edu](mailto:didonas@sunysccc.edu)

Susanna Adams, Coordinator of ADA Transition Services, is the individual designated by the College to coordinate its efforts to comply with reasonable accommodation obligations towards qualified individuals with disabilities. Questions or concerns regarding reasonable accommodation of individuals with disabilities should be directed to Ms. Adams at Elston Hall, Room 222, (518) 381 1345, [adamssj@sunysccc.edu](mailto:adamssj@sunysccc.edu).

## **Jurisdiction**

This policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with SUNY Schenectady. In the remainder of this document, insofar as it relates to sexual harassment, the term “employees” refers to this collective group. This policy also applies to students.

**NOTE: If a Formal Complaint is filed that alleges conduct that could constitute Title IX Sexual Harassment, as defined under the Title IX Grievance Procedure**

**<https://sunysccc.edu/PDF/About%20SCCC/Policies%20and%20Procedures/Human%20Resources/2.23-3.19-TitleIXGrievancePolicy.pdf>, the Title IX Grievance Procedure will apply, and this Complaint, Investigation, and Disciplinary Procedure DOES NOT apply. However, if the Formal Title IX Complaint is dismissed, SUNY Schenectady may still choose to investigate the alleged discrimination or harassment under this policy, if SUNY Schenectady determines that the alleged discrimination or harassment may potentially violate this policy.**

**NOTE: If a complaint alleges conduct that could constitute a Sexual Misconduct, as defined under the Sexual Assault Relationship Violence, and Stalking Policies for Students and Employees (the “Sexual Misconduct Policy”)**

**<https://sunysccc.edu/PDF/About%20SCCC/Policies%20and%20Procedures/Student/3.16-SexualAssault-RelationshipViolence-Stalking.pdf>, and no Formal Complaint is filed, or the Formal Complaint is dismissed, the Investigation and Disciplinary Procedures for Sexual Misconduct Cases Handled Outside of the Title IX Grievance Procedure will apply, and this Complaint, Investigation, and Disciplinary Procedure DOES NOT apply. However, if the Sexual Misconduct investigation is dismissed, SUNY Schenectady may still choose to investigate the alleged discrimination or harassment under this policy, if SUNY Schenectady determines that the alleged discrimination or harassment may potentially violate this policy.**

Applicable laws and/or this policy also prohibit harassment based on any of the Protected Characteristics. Complaints of discrimination or harassment based on any Protected Characteristic that are not Formal Complaints or complaints under the Sexual Misconduct Policy will be addressed pursuant to this Policy.

## **What Is Prohibited Harassment?**

Prohibited harassment is a form of discrimination. In general, it can consist of spoken, written, and/or electronically transmitted words, signs, jokes, pranks, intimidation, or physical violence based on the protected characteristics of an employee or student, which alters the work or educational environment of that employee or student. The most well-known type of prohibited harassment is sexual harassment.

In addition, retaliation resulting from an individual’s protected activity (i.e., opposition to prohibited discrimination or participation in a statutory complaint process) is also prohibited. This prohibition applies to anyone on the College campuses. Harassment of students who are working or studying outside the campus proper is prohibited as well. The College is committed to preventing and correcting all such harassment, not just harassment which is severe or pervasive enough to provide the basis for a claim under federal or state law.

## **Sexual Harassment**

The College is committed to maintaining a campus free from sexual harassment. Sexual harassment is unlawful and may subject the College to liability. Any possible sexual harassment will be investigated whenever the College receives a complaint or otherwise knows of possible sexual harassment occurring. Those who engage in sexual harassment will be subject to disciplinary action. Supervisors who fail to report sexual harassment will also be subject to disciplinary action.

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment or education. Harassment need not be severe or pervasive to be unlawful, and can be any harassing conduct that consists of more than petty slights or trivial inconveniences.

Under federal and state law, sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct is made either explicitly or implicitly a term or condition of employment or enrollment,
- Submission to or rejection of such conduct is used as the basis for employment or academic decisions; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive work or educational environment, even if the complaining individual is not the intended target of the sexual harassment.

A sexually harassing hostile work or educational environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job or educational performance.

Sexual harassment also occurs when a person in authority tries to trade job or educational benefits for sexual favors. This can include grading, hiring, promotion, continued employment or any other terms, conditions or privileges of employment or education. This is also called "quid pro quo" harassment. Any employee or student who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Under Title IX, "sexual harassment" includes any conduct on the basis of sex that satisfies one or more of the following:

- An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);

- Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational S UNY Schenectady's education program or activity;
- Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;
- Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
- Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under New York's domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of New York.
- Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

However, this Policy prohibits all forms of sexual harassment, regardless of whether the harassment may give rise to a legal claim under Title IX or state or federal law.

### Examples of Sexual Harassment

The following describes some of the types of acts that may be unlawful sexual harassment that are strictly prohibited:

- Physical assaults of a sexual nature,<sup>1</sup> such as:
  - Rape, sexual battery, molestation, or attempts to commit these assaults; and
  - Intentional or unintentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body, or poking another employees' body.
- Unwanted sexual advances, propositions or other sexual comments, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;

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<sup>1</sup> Any complaint of sexual assault, including rape or fondling, will be addressed pursuant to the College's Sexual Assault, Relationship Violence, and Stalking Policies for Students and Employees, No. 3.16, available at [http://sunysccc.edu/Portals/1/PDF/About\\_SCCC/Policies\\_and\\_Procedures/Student/3.16-SexualAssault-RelationshipViolence-Stalking.pdf](http://sunysccc.edu/Portals/1/PDF/About_SCCC/Policies_and_Procedures/Student/3.16-SexualAssault-RelationshipViolence-Stalking.pdf).

- Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person’s sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people’s ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace or campus computers or cell phones and sharing such displays while in the workplace or on campus.
- Hostile actions taken against an individual because of that individual’s sex, sexual orientation, gender identity and the status of being transgender, such as:
  - Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform a job or educational activities;
  - Sabotaging an individual’s work or education;
  - Bullying, yelling, name-calling.

A type of sexual harassment known as “quid pro quo” harassment occurs when a person in authority tries to trade job or academic benefits for sexual favors. This can include hiring, promotion, grading, scheduling, continued enrollment or employment, or any other terms conditions or privileges of enrollment or employment. To avoid the potential for quid pro quo sexual harassment, it is the policy of the College that no sexual relationship should exist between supervisor (or evaluator) and subordinate, including between student workers and their supervisors, or between faculty and students, except as expressly permitted by the College’s Policy on Consensual Relationship, No. 2.28, (August 20, 2018) available at <http://sunysccc.edu/Portals/1/PDF/About%20SCCC/Policies%20and%20Procedures/Human%20Resources/2.28-ConsensualRelationshipPolicy.pdf?ver=2018-08-23-160401-937> If a prohibited sexual relationship develops, the supervisory authority and/or responsibility for grading, evaluation, etc. should be promptly transferred to another individual.

Sexual harassment is neither limited by the gender of either party, nor limited to supervisor-subordinate or teacher-student relationships. Sexual harassment can occur between male and female students and employees, or between persons of the same sex. Sexual harassment that occurs because the victim is transgender is also unlawful.

#### Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects students, employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services on

campus. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace or on campus, including an independent contractor, contract worker, vendor, client, customer or visitor.

#### Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace or campus itself. It can occur while employees are traveling for business or education, at SUNY Schenectady sponsored events or parties. Calls, texts, emails, and social media usage by employees or students can constitute unlawful harassment, even if they occur away from campus, on personal devices or during non-work hours.

#### **Supervisory Responsibilities**

All supervisors and managers who receive a complaint or information about suspected discrimination or harassment, observe what may be discriminating or harassing behavior or for any reason suspect that discrimination or harassment is occurring, are required to report such suspected discrimination or harassment to the Title IX Coordinator.

In addition to being subject to discipline if they engaged in discriminating or harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected discrimination or harassment or otherwise knowingly allowing discrimination or harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

#### **Other Types of Harassment**

Prohibited harassment on the basis of a Protected Characteristic, or any other protected basis, includes behavior similar to sexual harassment, such as: (1) verbal, written, and/or electronically transmitted conduct, including threats, epithets, derogatory comments, or slurs; (2) visual conduct, including derogatory posters, photographs, cartoons, drawings, or gestures; and (3) physical conduct, including assault, unwanted touching, or blocking normal movement. The College will not tolerate any such harassment.

#### **Prohibition of Retaliation**

It is a violation of federal and state law and this policy for any employee or student to retaliate against any student or employee for engaging in any protected activity under the Violence Against Women Act, the Clery Act, Title VI, Title VII, Title IX, the New York State Human Rights Law, the ADA, the Rehabilitation Act, the ADEA, and other federal and state civil rights laws.

Unlawful retaliation can be any action, more than trivial, that would have the effect of dissuading a reasonable employee or student from making or supporting a charge of harassment or any other practices forbidden by the Law. Actionable retaliation can occur after the individual is no longer employed by, or enrolled at, the College. This can include, for example, giving an unwarranted negative reference for a former employee or former student.

This includes retaliating against a student or employee who opposes a discriminatory practice, makes a good faith complaint about harassment and/or discrimination, or furnishes information or participates in any manner in an investigation of such a complaint.

Retaliation includes any conduct directed at someone because he or she engaged in such protected activity, which might deter a reasonable student or employee from making or supporting a charge of harassment or discrimination. Protected activity can include any of the following:

- filing a complaint of discrimination or harassment, either internally with the College, or with any anti-discrimination agency,
- testifying or assisting in a proceeding or investigation involving discrimination or harassment,
- opposing discrimination or harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of discrimination or harassment,
- complaining that another student or employee has been discriminated against or harassed,
- encouraging another student or employee to report discrimination or harassment, and
- requesting an accommodation for a disability or a religious practice.

Retaliation is unlawful and will not be tolerated. Any individual found to have engaged in retaliation will be subject to disciplinary action, up to and including, termination of employment and/or dismissal from the College.

Any employee or student who becomes aware of retaliation against a student or employee should contact the Interim Title IX Coordinator or the Executive Director of Human Resources.

### **Confidentiality**

The College will, to the extent possible, maintain confidentiality with respect to complaints of discrimination and prohibited harassment. However, there is no such thing as an “unofficial” or “informal” complaint of discrimination or harassment. Once the College or its supervisors become aware of a complaint, the College is required by law to take action consistent with this policy.<sup>2</sup> These actions may require disclosure of the allegations to the extent necessary to conduct a complete and thorough investigation.

### **Complaint, Investigation, and Disciplinary Procedure for Employees and Students**

- **Reporting Prohibited Discrimination and Harassment**

Any employee or student who believes he or she is the victim of prohibited discrimination or harassment should file a complaint with the Interim Title IX Coordinator. If s/he is not available, or if an employee or student does not feel comfortable reporting discrimination or prohibited harassment to the Interim Title IX Coordinator, he or she may also report it to any the Executive Director of Human Resources or the Assistant Vice President of Student Affairs.

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<sup>2</sup> College employees who learn of alleged discrimination or prohibited harassment as a result of privileged communications with a student (e.g., through a counseling relationship) are exempted from this requirement.

When an employee or student makes a report with the Interim Title IX Coordinator, or designee, he or she will be given a written complaint form to complete. A sample copy of this form is provided below. The Interim Title IX Coordinator or designee will also provide the complainant and the respondent with copies of this Policy for review.

If the alleged conduct may constitute sexual harassment under Title IX, the Title IX Coordinator/EEO Specialist will inform the complainant of his or her right to file a Formal Complaint under the Title IX Grievance Procedure

[<https://sunysccc.edu/PDF/About%20SCCC/Policies%20and%20Procedures/Human%20Resources/2.23-3.19-TitleIXGrievancePolicy.pdf>]. If a Formal Complaint is filed, the Title IX Grievance Procedure will apply, and this Complaint, Investigation, and Disciplinary Procedure DOES NOT apply. However, if the Formal Title IX Complaint is dismissed, SUNY Schenectady may still choose to investigate the alleged discrimination or harassment under this policy, if SUNY Schenectady determines that the alleged discrimination or harassment may potentially violate this policy.

If a complaint alleges conduct that could constitute a Sexual Misconduct, as defined under the Sexual Misconduct Policy

<https://sunysccc.edu/PDF/About%20SCCC/Policies%20and%20Procedures/Student/3.16-SexualAssault-RelationshipViolence-Stalking.pdf>, the Investigation and Disciplinary Procedures for Sexual Misconduct Cases Handled Outside of the Title IX Grievance Procedure will apply, and this Complaint, Investigation, and Disciplinary Procedure DOES NOT apply. However, if the Sexual Misconduct investigation is dismissed, SUNY Schenectady may still choose to investigate the alleged discrimination or harassment under this policy, if SUNY Schenectady determines that the alleged discrimination or harassment may potentially violate this policy.

However, even if an employee or student chooses not to file a complaint with the College, if the College knows, or reasonably should know, about a suspected incident of discrimination or harassment, the College will promptly investigate to determine what occurred under this Policy, and then take appropriate steps to resolve the situation.

All employees of the College are responsible for keeping the College's working and learning environment free from discrimination or prohibited harassment. For that reason, if an employee observes or otherwise learns of conduct which may constitute discrimination or prohibited harassment, the employee must report the conduct to the Interim Title IX Coordinator, even if the employee is not the victim of that conduct.

In addition to filing a complaint with the College, an employee or student who believes he or she is the victim of discrimination or harassment may file a complaint with the following federal, state or local agencies:

- o United States Department of Education's Office for Civil Rights ("OCR"):  
New York Office  
Office for Civil Rights  
U.S. Department of Education  
32 Old Slip, 25th Floor  
New York, NY 10005  
Telephone: 646-428-3900  
Fax: 646-428-3843  
E-mail: [ocr@ed.gov](mailto:ocr@ed.gov).

Online: <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

- United States Equal Employment Opportunity Commission (“EEOC”):  
John E. Thompson Jr., Director  
Buffalo Local Office  
Olympic Towers  
300 Pearl Street, Suite 450  
Buffalo, NY 14202  
Phone: 1-800-669-4000  
Fax: 716-551-4387  
Online: <https://www.eeoc.gov/employees/howtofile.cfm>
- New York State Division of Human Rights (“DHR”):  
Victor DeAmelia, Regional Director  
NYS Division of Human Rights  
Agency Building 1, 2nd Floor, Empire State Plaza  
Albany, New York 12220  
Telephone: (518) 474-2705  
Fax: (518) 473-2955  
Email: [InfoAlbany@dhr.ny.gov](mailto:InfoAlbany@dhr.ny.gov)  
Online: <https://dhr.ny.gov/complaint>
- Schenectady County Human Rights Commission  
Executive Director  
797 Broadway, Room 305  
Schenectady, NY 12305  
Telephone: (518) 377-2982  
Fax: (518) 377-5374  
Online: <https://www.schenectadycounty.com/humanrights>

- **Investigation of Complaints**

When the College becomes aware that discrimination or prohibited harassment may exist, it is obligated by law to take prompt and appropriate action. Failure to do so is considered a violation of this Policy.

Once a complaint of discrimination or prohibited harassment has been made either in writing or orally, or observed discrimination or harassment has been reported, the Title IX Coordinator will make an initial assessment regarding the validity of the complaint. Unless the complaint is determined to be invalid (e.g. erroneous information, failure to state a claim, mistaken identity, etc.), the Title IX Coordinator, or designee (who must be trained in discrimination and harassment, and this Policy), will promptly conduct a complete, thorough, and impartial investigation.

If the Title IX Coordinator or his or her adequately trained designee is involved in the alleged discrimination or harassment, the President will be responsible for choosing an adequately trained designee to conduct the investigation. If it would be inappropriate for the Title IX Coordinator or President to choose an adequately trained designee to conduct the investigation, then the Chair of the Board of Trustees will make this designation.

While the investigation is being conducted, interim measures will be available to end or limit contact between the complainant and the respondent. Interim measures may include:

- support services (victim advocacy, housing assistance, academic support, counseling, health and mental health services, legal assistance);
- changing work assignments and situations (for employees);
- changing course schedules, assignments, or test schedules (for students);
- providing increased monitoring, supervision, or security; and
- providing an escort.

No complainant is required to take advantage of these interim measures, but the College provides them in an effort to offer help and support. Such interim measures can be requested by a complainant or respondent, by contacting the Title IX Coordinator. The College will protect the confidentiality of accommodations or protective measures provided to a complainant or respondent, to the extent that doing so will not impair the College's ability to provide the accommodations or protective measures.

The standard of evidence used to evaluate a report of prohibited harassment or discrimination is a "preponderance of the evidence." Under this standard, a determination must be made on the basis of whether it is more likely than not that the respondent student or employee violated this Policy.

In investigating the complaint, the Title IX Coordinator, or designee, shall:

1. Meet with the appropriate individuals and review all appropriate records that bear on the case.
2. Discuss the allegations in the complaint with the complainant and respondent at separate meetings, and provide the complainant and respondent with equal opportunities to identify witnesses and present evidence supporting their respective positions at these meetings.
3. Provide the complainant and the respondent with the same opportunities for a non-attorney support person or non-attorney advisor of their choice throughout the process, including any meeting, conference, hearing or other procedural action.
4. Interview any identified or known non-party witness(es).
5. Attempt, where appropriate, to resolve the complaint by exploring and suggesting possible alternative solutions to the problem with all involved parties, provided, however, that the complainant will not be required to participate in mediation with the respondent.
6. (If the preceding step does not resolve the problem, make and transmit a preponderance of the evidence determination in the matter of the allegation of discrimination/harassment to the complainant, respondent and, if the respondent is an employee, the employee's supervisor (or the President if the respondent is a senior officer), or, if the respondent is a student, the Assistant Vice President of Student Affairs.

7. If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
8. Request and review all relevant documents, including all electronic communications.
9. Create a written report of the investigation which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
10. Keep the written documentation and associated documents in a secure and confidential location.

The time necessary to complete an investigation will vary depending upon the facts of a particular case. In most cases, investigations will be completed no later than sixty (60) calendar days of receipt of a complaint.

- **Following the Investigation**

Once the investigation is complete, the parties will be informed, in writing, of the outcome, including the finding, the sanctions (if any) and the rationale therefor. Delivery of this outcome will not be delayed to either party, and should occur as nearly simultaneously as possible, without unnecessarily bringing those in conflict into close proximity to each other.

All parties will be informed of their potential rights to exercise a request for appeal, where applicable, under the Student Code of Conduct, Employee Handbook or contract, and/or applicable collective bargaining agreement with the College. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.

If the investigation reveals that discrimination and/or prohibited harassment did occur, the College will take all appropriate remedial measures necessary to end such conduct, prevent any such future conduct, and correct any personnel or academic decisions made which are related to the prohibited conduct. Remedies may include, but are not limited to, continuing or commencing any of the above-listed “interim measures.” These remedies are separate from, and in addition to, any interim measures that may have been provided prior to the conclusion of the investigation. Such measures can be requested by a complainant, by contacting the Executive Director of Human Resources (for employees) or the Interim Title IX Coordinator (for students).

- **Discipline**

The College takes complaints of discrimination and prohibited harassment with the greatest seriousness. For that reason, if, following the investigation, the Title IX Coordinator or other trained investigator concludes that it is more likely than not that the respondent student or employee violated this Policy, the College will pursue strong disciplinary action through its own channels.

Internal disciplinary proceedings for cases of harassment and discrimination are fair and impartial, include timely notice of meetings and timely and equal access to information and evidence that will be used, and are conducted by unbiased decision makers who have no conflict of interest. The proceedings are completed within a reasonably prompt, designated timeframe. Further information regarding internal disciplinary proceedings for students can be found in the Student Code of Conduct. Further information regarding internal disciplinary proceedings for employees can be found in the Employee Handbook or contract and/or in any applicable collective bargaining agreement with the College.

Following any internal disciplinary proceeding for cases of harassment and discrimination, the complainant and respondent will be provided with simultaneous written notice of the result of the proceeding, including any sanctions imposed that relate directly to the complainant, and the rationale for the result and complainant -related sanctions.

Discipline for incidents of discrimination and harassment may take a variety of forms, depending upon the circumstances of a particular case. Among the disciplinary sanctions which may be imposed on students are the following: verbal warning, written reprimand, probation, restrictions, suspension and expulsion. Among the disciplinary sanctions which may be imposed on employees are: verbal warning, written reprimand, suspension without pay, and termination. The full range of student disciplinary penalties is set forth in the Student Code of Conduct. Employee disciplinary penalties are set forth in the Employee Handbook or contract and/or in any applicable collective bargaining agreement with the College.

All parties will be simultaneously informed of their potential rights to exercise a request for an appeal of the disciplinary determination, where applicable, under the Student Code of Conduct, Employee Handbook or contract, and/or collective bargaining agreement with the College. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.

Engaging in discrimination, prohibited harassment, or retaliation may also lead to civil and/or criminal action under state or federal law. Any employee who, in violation of this Policy, engages in discrimination, prohibited harassment or retaliation, is acting outside the scope of his or her employment and may be personally liable for such actions and their consequences. In the event legal proceedings are commenced against such an employee, the College may decline to provide legal, financial or other assistance.

### **Legal Protections and External Remedies**

Discrimination and harassment is not only prohibited by SUNY Schenectady but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at SUNY Schenectady, employees and students may also choose to pursue legal remedies with one or more of the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

#### State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to discrimination and harassment, and protects students, employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time within one year of the discrimination or harassment (three years beginning August 12, 2020 for sexual harassment claims). If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged discrimination or harassment. An individual may not file with DHR if they have already filed an HRL complaint in state court.

Complaining internally to SUNY Schenectady does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of discrimination or harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that discrimination or harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination or harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the discrimination or harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

#### Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the

complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### Local Protections

Many localities enforce laws protecting individuals from harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

### Office of Civil Rights

In addition, an employee or student who believes he or she is the victim of discrimination or harassment may file a complaint with the United States Department of Education’s Office for Civil Rights (“OCR”). Complaints may be filed to OCR by:

- Mail or Facsimile: Complainants may mail or send a complaint by facsimile a letter to:

U.S. Department of Education  
Financial Square  
32 Old Slip, 25th Floor, New York, NY 10005  
Telephone: 646-428-3906 | Fax: 646-428-3904

- E-mail: Complainants may file a complaint to the following e-mail address: [ocr@ed.gov](mailto:ocr@ed.gov).
- Online: Complainants may file a complaint with OCR using OCR’s electronic complaint form at the following website: [https://www2.ed.gov/about/offices/list/ocr/complaint\\_intro.html](https://www2.ed.gov/about/offices/list/ocr/complaint_intro.html).

### Contact the Local Police Department

If the discrimination or harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

SUNY SCHENECTADY COUNTY COMMUNITY COLLEGE  
DISCRIMINATION/HARASSMENT COMPLAINT

Name of Complainant: \_\_\_\_\_ Date Filed: \_\_\_\_\_  
(please print)

Home Address: \_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City) (State) (Zip Code)

Home Telephone: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
(Area Code)

Signature: \_\_\_\_\_

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

\_\_\_\_\_  
(City) (State) (Zip Code)

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
(Area Code)

Position Held: \_\_\_\_\_

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Basis for filing complaint of discrimination: Circle appropriate classification(s)

- |                    |                                       |
|--------------------|---------------------------------------|
| RACE               | ACTUAL OR PERCEIVED NATIONAL ORIGIN   |
| COLOR              | MILITARY OR VETERAN STATUS            |
| SEXUAL ORIENTATION | GENDER CHARACTERISTICS AND EXPRESSION |
| MARITAL STATUS     | RELATIONSHIP VIOLENCE VICTIM          |
| RETALIATION        | PREVIOUS CONVICTION OR ARREST         |
| DISABILITY         | GENETIC PREDISPOSITION OR CARRIER     |
| AGE                | VICTIM OF SEXUAL ASSAULT OR STALKING  |
| RELIGION           | ACTUAL OR PERCEIVED GENDER IDENTITY   |
| GENDER             | FAMILIAL STATUS                       |

Date(s)/Time(s) alleged discrimination/harassing act occurred: \_\_\_\_\_

Place of alleged discriminatory/harassing act: \_\_\_\_\_

Person(s) who committed alleged act(s) of discrimination/harassment: \_\_\_\_\_

Witnesses to the alleged discrimination/harassing act:

Description of Events Leading to Filing a Complaint:

Person assisting complainant (Optional):

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_  
(Street) (City) (State) (Zip Code)

Telephone: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
(Area Code)

Relief Sought by Complainant: