

SUNY
SCHENECTADY
 COUNTY COMMUNITY COLLEGE

Personnel

Board of Trustees Policy

SUBJECT: Discrimination, Harassment, and Retaliation Policy and Complaint Resolution Procedure	Number: 3.15 & 2.13
	DATE: May 13, 2024 Resolution #24-60
	SUPERSEDES: May 17, 2021 Resolution # 21-58 August 17, 2020 Resolution # 20-71 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 Discrimination, Harassment, and Retaliation Policy and Complaint Resolution Procedure of the SUNY Schenectady Board of Trustees, as hereto attached.

Discrimination, Harassment, and Retaliation Policy and Complaint Resolution Procedure

Policy on Non-Discrimination and Harassment

In compliance with applicable federal, state and local laws, SUNY Schenectady (the “College”) does not discriminate on the basis of race, color, sex/gender (including pregnancy), gender characteristics or expression, sexual orientation, age, religion, creed, actual or perceived national origin, citizenship actual or perceived gender identity, marital or familial status, military or veteran status, physical or mental disability, status as a victim of a domestic violence, genetic predisposition and carrier status, reproductive health decisions, criminal or arrest record 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.

The College has designated the Executive Director of Human Resources 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, Harassment, and Retaliation Policy and Complaint Resolution Procedure (the “Policy”) should be directed to the Executive Director of Human Resources at (518) 381-1218, or HRassist@sunysccc.edu.

In the absence of, or as an alternative to the Executive Director of Human Resources, questions or concerns about this Policy may also be addressed to:

Employees

Executive Director for Human Resources
(518) 381-11218
humanresources@sunysccc.edu

Students

Title IX Coordinator
(518) 381-1340
titleix@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) 3811345, adamssj@sunysccc.edu.

Jurisdiction

This Policy applies to all employees, applicants for employment, interns, whether paid or unpaid (collectively referred to for the purposes of this Policy as “employees”), as well as contractors, consultants, vendors, service persons, visitors, and other persons conducting business at or for the

College (collectively referred to as “other persons”), regardless of immigration status, with S UNY Schenectady. This policy also applies to students.

This Policy covers matters in the employment relationship including, but 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.

NOTE: If a Formal Complaint is filed that alleges conduct that could constitute Title IX Sexual Harassment, as defined under the Title IX Grievance Policy <https://sunysccc.edu/PDF/About%20SCCC/Policies%20and%20Procedures/Human%20Resources/2.23-3.19-TitleIXGrievancePolicy.pdf>, the Title IX Grievance Policy will apply, and this Policy will not apply. However, if the Formal Title IX Complaint is dismissed, SUNY Schenectady may still choose to investigate the alleged discrimination, harassment, or retaliation under this Policy, in SUNY Schenectady’s sole discretion.

- **NOTE: If a complaint alleges conduct that could constitute a Sexual Misconduct, as defined under the Sexual Assault Relationship Violence, and Stalking Policies and Procedures 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 under the Title IX Grievance Policy, or such Formal Complaint is dismissed, the Sexual Misconduct Policy will apply and this Policy will not apply. However, if the Sexual Misconduct investigation is dismissed, SUNY Schenectady may still choose to investigate the alleged discrimination, harassment, or retaliation under this Policy, in SUNY Schenectady’s sole discretion.**

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.

Discrimination

Discrimination involves any form of disparate or unequal treatment based on a Protected Characteristic with respect to a student’s terms and conditions of education and an employee’s terms and conditions of employment, including but not limited to recruitment, hiring, compensation, training, promotion, demotion, transfer and termination. Discrimination in any area of employment or education is prohibited.

What Is Prohibited Harassment?

Prohibited harassment is a form of discrimination. Unlawful harassment includes any unwelcome verbal, physical and/or visual conduct intended to demean, ridicule, degrade, offend or intimidate an individual or group because of a Protected Characteristic. 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. The College is committed to preventing and correcting all such harassment, regardless of whether it violates federal or state law.

In New York, harassment does not need to be severe or pervasive to be illegal. Employees and students should not feel discouraged from reporting harassment because they do not believe it is bad enough, or conversely because they do not want to see a colleague fired over less severe behavior. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.

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, or who are participating in employment or educational activities associated with the College.

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, up to and including termination of employment or expulsion from the College. 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 not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees or students differently because of their gender.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do. Respecting an individual's gender identity is a necessary first step in establishing a safe workplace and school. In New York, sexual harassment is unlawful when it is unwelcome and 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, student, or other person 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.

Title IX Sexual Harassment is defined in the Title IX Grievance Policy.

Examples of Sexual Harassment

The following describes some of the types of conduct that may be unlawful sexual:

- Physical assaults of a sexual nature (which ordinarily will be handled under either the Title IX Grievance Policy or the Sexual Misconduct Policy) 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 individual's body, or poking another individual's 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;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look, such as remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or asking employees or students to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.

- 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.
 - This also extends to the virtual or remote workspace or educational space and can include having such materials visible in the background of one’s home during a virtual meeting.

- 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
 - Intentional misuse of an individual’s preferred pronouns; and/or
 - Creating different expectations for individuals based on their perceived identities such as with dress codes that place more emphasis on women’s attire or leaving parents/caregivers out of meetings.

“Quid pro quo” sexual 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 a supervisor/evaluator and subordinate, including between student workers and their supervisors, or between faculty and students, except as expressly permitted by the College’s Consensual Relationship Policy No. 2.28, (August 20, 2018) available at <https://webdev.sunysccc.edu/PDF/About%20SCCC/Policies%20and%20Procedures/Human%20Resources/2.28-ConsensualRelationshipPolicy.pdf>. If a prohibited sexual relationship develops, the supervisory authority and/or responsibility for grading, evaluation, etc. will be promptly transferred.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. New York Law protects employees, students, and all covered individuals described earlier in the policy. Harassers can be anyone in the workplace. A supervisor, a supervisee, or a coworker can all be harassers. Anyone else in the workplace can also be harassers including an independent contractor, contract worker, vendor, client, customer, patient, constituent, or visitor.

Sexual harassment does not happen in a vacuum and discrimination experienced by an employee can be impacted by biases and identities beyond an individual’s gender. For example:

- Placing different demands or expectations on black women than white women can be both racial and gender discrimination;
- An individual’s immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or
- Past experiences as a survivor of domestic or sexual violence may lead an individual to feel re-traumatized by someone’s behaviors in the workplace.

Where can sexual harassment occur?

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

Sexual harassment can occur when employees are working remotely or students are engaging in remote educational activities as well. Any behaviors outlined above that leave an employee feeling uncomfortable, humiliated, or unable to meet their job requirements constitute harassment even if the employee or covered individual is at home when the harassment occurs. Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

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 Executive Director of Human Resources. Managers and supervisors should not be passive and wait for an employee or student to make a claim of harassment. If they observe such behavior, they must act. Employees of every level who engage in harassment, and any manager or supervisor who knowingly allows such behavior to continue, will be subject to disciplinary action up to and including termination of employment.

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.

Bystander Intervention

Any member of the campus community witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is required to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
3. A bystander can record or take notes on the harassment incident to benefit a future investigation;
4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and

5. If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace. Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is required to report it.

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 such harassment.

Prohibition of Retaliation

It is a violation of federal and state law and this Policy for any employee, student, or other person to retaliate against any student, employee, or other person 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, student, or other person 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, employee, or other person 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 they engaged in such protected activity, which might deter a reasonable student, employee, or other person from making or supporting a charge of harassment or discrimination. Protected activity can include any of the following:

- filing a good faith 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 individual has been discriminated against or harassed,

- encouraging another individual 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 Executive Director of Human Resources, Human Resources and Diversity Manager, or the Title IX Coordinator.

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, unless the complaint is made to a designated confidential resources such as a mental health counselor. These actions may require disclosure of the allegations to the extent necessary to conduct a complete and thorough investigation.

Complaint, Investigation, and Disciplinary Procedure

- **Reporting Prohibited Discrimination, Harassment, and Retaliation**

Any employee, student, or other person who believes they may be the victim of prohibited discrimination, harassment, or retaliation should file a complaint with the Executive Director of Human Resources. If the Executive Director of Human Resources is not available, or if an individual does not feel comfortable reporting discrimination or prohibited harassment to the Executive Director of Human Resources, the individual may also make a report to the Human Resources and Diversity Manager or the Title IX Coordinator.

When an individual makes a report, they will be given a written complaint form to complete. A sample copy of this form is provided below. The Executive Director of Human Resources, or other party taking the complaint, will also provide the complainant and the respondent with copies of this Policy for review.

If an employee, student, or other person chooses not to file a complaint with the College, and the College knows, or reasonably should know, about a suspected incident of discrimination, harassment, or retaliation, 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 Executive Director of Human Resources, even if the employee is not the victim of that conduct.

- **Investigation of Complaints**

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

Once a complaint of discrimination, harassment, or retaliation has been made either in writing or orally, or observed discrimination or harassment has been reported, the Executive Director of Human Resources 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 Executive Director of Human Resources, or designee (who must be trained in discrimination, harassment, and retaliation and this Policy), will promptly conduct a complete, thorough, and impartial investigation.

If the Executive Director of Human Resources is involved in the alleged discrimination, harassment, or retaliation the President will be responsible for choosing another adequately trained designee to conduct the investigation. If it would be inappropriate for the Executive Director of Human Resources 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, 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 Executive Director of Human Resources. 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 Executive Director of Human Resources, or designee, shall:

1. Meet with the appropriate individuals and review all appropriate records or documents that are relevant to the matter. This may include emails, text messages, and/or phone records.
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 witnesses.
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 complaint cannot be resolved informally, make a determination of whether this Policy was violated using the preponderance of the evidence standard
7. If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
8. Prepare 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;
 - Information regarding the evidence, records, and documentation reviewed during the investigation; and
 - The basis for the decision and final resolution of the complaint, together with any recommended corrective action(s).
9. Provide the written report to the applicable decision maker:
 - a) If the respondent is a student – to the Vice President of Student Affairs.
 - b) If the respondent is an employee or other person – to the Executive Director of Human Resources. If the Executive Director of Human Resources investigated the complaint, the written report shall be provided to the President, or designee.
 - c) If the respondent is a senior officer or employee – to the President, or designee.
 - d) If the respondent is the President – to the Chair of the Board of Trustees.
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 decision maker will issue a decision and notify the complainant and respondent, 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, prohibited harassment, or retaliation 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 and other persons) or the Title IX Coordinator (for students).

- **Discipline**

The College takes complaints of discrimination, harassment, and retaliation very seriously. For that reason, if, following the investigation, the College concludes that it is more likely than not that the respondent violated this Policy, the College will pursue disciplinary action through the applicable process.

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, 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, harassment, and retaliation 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 their 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.

Please note that while this policy sets forth the College's goal of promoting a workplace and school that is free of harassment, discrimination and retaliation, the policy is not designed or intended to limit the College's ability to discipline or take remedial action for conduct in the College which it deems unprofessional, inconsistent with the College's standards, or otherwise inadvisable behavior, regardless of whether that conduct satisfies the legal definition of unlawful discrimination, harassment or retaliation.

Legal Protections and External Remedies

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

Aside from the internal process at SUNY Schenectady, individuals 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, harassment, and retaliation, and protects students, employees, and other persons, 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 as of 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.

Contact information for the local office is as follows:

- New York State Division of Human Rights
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
Online: <https://dhr.ny.gov/complaint>

Call the DHR sexual harassment hotline at 1(800) HARASS3 for more information about filing a sexual harassment complaint. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.

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 or via email at 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.

Contact information for the local office is as follows:

- 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>

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. Contact information for the Schenectady County Human Rights Commission is as follows:

- 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/human-rights>

Office of Civil Rights

In addition, an employee or student who believes they may be the victim of discrimination, harassment, or retaliation may file a complaint with the United States Department of Education's Office for Civil Rights ("OCR"). Contact information for the OCR is as follows:

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

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/RETALIATION COMPLAINT FORM

Name of Complainant: _____ Date Filed: _____
(please print)

Home Address: _____
(Street)

(City) (State) (Zip Code)

Home Telephone: _____ - _____ - _____
(Area Code)

Signature: _____

Address: _____

(City) (State) (Zip Code)

Email: _____

Telephone: -----
(Area Code)

Position Held: _____

Basis for filing complaint of discrimination: Circle all that apply:

- Age
- Citizenship
- Color
- Creed
- Criminal or Arrest Record
- Disability
- Gender Characteristics or Expression
- Gender Identity
- Genetic Predisposition and Carrier Status

- Marital or Familial Status
- Military or Veteran Status
- National Origin
- Race
- Religion
- Reproductive Health Decisions
- Sex/Gender (including Pregnancy)
- Sexual Orientation
- Status as Victim of Domestic Violence

Retaliation

Date(s)/Time(s) alleged discrimination/harassing/retaliatory act(s) occurred: _____

Place of alleged act(s): _____

Person(s) who committed alleged act(s): _____

Witnesses to the alleged act(s):

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: