

**Corning Community College  
Administrative Procedure**

<b>Issue/Amendment Date:</b> February 2021	<b>Equal Employment and Educational Opportunity Complaint Procedure</b>
<b>Author:</b> Human Resources Office	<b>Administrative Procedure #2014-02</b>

This Procedure provides a mechanism through which the College may identify, respond to, and prevent incidents of bullying, harassment and discrimination. The College recognizes and accepts its responsibility in this regard and believes that the establishment of this internal, non-adversarial complaint process will benefit students, employees, and College administration, permitting investigation and resolution of problems without resorting to the frequently expensive and time consuming procedures of state and federal enforcement agencies or courts.

All members of the College community, including students, should realize that a charge of discrimination is a serious matter that may impact the education or careers of individuals or the College as a whole. For that reason, the College will take seriously any discrimination complaints, pursue timely investigation and resolution procedures, and make every effort to keep the complainants and respondents informed throughout the course of an investigation. The proceedings of any investigation are held confidential to the extent possible.

Although this complaint procedure does not in any way deprive an individual of the right to file a complaint with outside agencies (such as the NYS Division of Human Rights, the Equal Employment Opportunity Commission, or the Office for Civil Rights of the U.S. Department of Education), the College seeks cases be addressed promptly and fairly using appropriate administrative means that are available to avoid the personal and institutional stress which can occur. Consequently, this complaint procedure may not be used if the same complaint has been filed with a State or Federal agency or if a grievance has been filed under any current College policy of collective bargaining agreement or any other internal grievance procedure, unless the complaint is one of sex discrimination (including sexual harassment, sexual assault, and sexual violence). Any investigation or review underway will terminate without conclusion if a complaint (other than one of sex discrimination) is filed elsewhere.

**Please Note:**

- In addition to addressing harassment and discrimination complaints, this procedure is the resolution procedure to be used for complaints under the College’s Anti-Bullying Policy (available on the MyCCC Policy page of Human Resources)
- No unauthorized audio or video recording of any kind is permitted during the investigation meetings or investigatory interviews.
- The standard applied to this process is a preponderance of evidence standard (i.e., the evidence must demonstrate that it is more likely than not that the conduct occurred).
- Title IX Complaint procedures are documented under the Grievance Policy for Addressing Formal Complaints of Sexual Harassment Under Title IX Regulations

## **Retaliation**

Retaliation against any individual for filing a complaint or for assisting or participating in the investigation of a complaint is strictly prohibited and may result in disciplinary action. Retaliation is an adverse action taken against an individual as a result of complaining about unlawful discrimination or harassment, exercising a legal right, and/or participating in a complaint investigation as a third party witness. Complainants or participants who experience retaliation should contact the Executive Director of Human Resources/Title IX Coordinator (the "HR Director").

## **Malicious complaints**

Malicious or mischief complaints are prohibited and if found responsible for filing an intentionally misleading report, individuals may face disciplinary action as per the appropriate College policy or collective bargaining agreement.

## **Informal Resolution**

Although verbal complaints may be acted upon, the procedures set forth herein rely upon the submission of a written complaint to initiate the resolution process. It is strongly encouraged for complaints to be made in as timely a manner possible understanding that there may be obstacles in allowing for that. In some cases where a formal complaint is not submitted but there is reasonable evidence or cause to initiate an investigation, the College may initiate an investigation without a complainant or report received by an individual.

1. Complaints or concerns that are reported to an administrator, director, or supervisor concerning an act of discrimination or harassment, or acts of discrimination or harassment that administrators, directors, or supervisors observe or become aware of must be immediately referred to the Executive Director of Human Resources/Title IX Coordinator. Complaints may also be made directly to the HR Director by anyone who experiences, observes, or becomes aware of discrimination or harassment.

The complainant must file a written complaint with the HR Director. All such complaints must be submitted in writing (email or hard copy) or on the web form available on the College's public website. Students are encouraged to be aware of timelines that may impact academic appeals as noted in the College Catalog.

2. The written complaint should include the following information:

- The complainant's name, address, telephone number(s), email address, and status (student, employee, third party) and date of complaint submission
- A statement of the facts explaining what happened and what the complainant believes constituted the bullying or unlawful discriminatory acts with sufficient detail. The statement should ideally include the date, approximate time, and place where the alleged act(s) of bullying or unlawful discrimination occurred. If the acts occurred on more than one date, the statement should also include the last date on which the acts occurred, as well as detailed information about the prior acts. The names of any potential witnesses should be provided.
- The name(s), address(es), telephone number(s), status(es) of the respondent(s), i.e., the person(s) claimed to have committed the act(s) of bullying or unlawful discrimination (if known).
- A statement indicating whether or not the complainant has filed or reported information concerning the incidents referred to in the complaint with a non-campus official or agency under any other complaint procedure. If an external complaint has been filed, the statement should indicate the name and address of the department or agency with which the information was filed.

- A description of any corrective or remedial action that the complainant would like to see taken.

The HR Director is available to assist individuals in preparing complaints.

3. The HR Director and/or designee(s) will attempt to resolve the complaint informally to the mutual satisfaction of the parties. The HR Director or designee will review all relevant information and interview pertinent witnesses as needed. If a mutually agreeable solution is achieved within 24 calendar days of the date the complaint was filed, the complaint is closed and the file is completed. Both the complainant and the respondent receive a copy of a brief concluding statement. Complaint records will be kept in a secure file in the HR Director's office.

If a mutually acceptable solution is not possible at the informal stage, either party may choose to move to the formal procedure. The HR Director and/or designee will assist the complainant and respondent through the formal resolution process.

### **Formal Resolution**

Either party may make a written request to the HR Director to have the matter reviewed by an Equal Opportunity (EO) Committee. Such written request must be received by the HR Director within 10 calendar days of the date that any informal resolution was rendered or such a request can be made while the informal resolution process is ongoing. In such a situation, the informal process will end and will be superseded by the formal procedure.

1. An ad hoc EO Committee is coordinated by the HR Director or designee and will be composed of three members of the College community who are appointed by the President, excluding the HR Director, who is not eligible to serve. The president may elect to appoint a single investigator in some cases in which case the HR Director may be considered as a single investigator. If the President is the respondent, then the committee members will be appointed by the Chairperson of the Regional Board of Trustees of Corning Community College. The Committee members will be appointed within 10 calendar days of the date the HR Director receives the written request to have the matter reviewed by an Equal Opportunity Committee.

The Equal Opportunity Committee is charged with determining if the party is responsible for policy violations based on the preponderance of the evidence. The Committee is not responsible for recommending penalties. The chief academic officer of the College is responsible for taking action on any complaints of discrimination regarding student respondent and the respective Senior Staff member with consult from the HR Director is responsible for taking action on complaints of discrimination regarding an employee respondent. Should the chief academic or senior staff member have an unmanageable conflict of interest, the President will be responsible for determining action.

2. The Committee will hold closed meetings to review all relevant information, interview pertinent witnesses, and, at their discretion, meet with the complainant, the respondent, and/or other individuals with relevant knowledge to the case. Both the complainant and the respondent will have the opportunity to present to the committee their respective accounts and positions and to review all other information presented. Both the complainant and the respondent will be entitled to submit written statements or other relevant and material evidence and to provide rebuttal statements to the written record compiled by the Committee.

3. The Committee will communicate its written determination and associated rationale to the complainant, the respondent, the HR Director, and the chief academic officer (as appropriate) within 24

calendar days of the committee formation and charge from the HR Director. The determination should include the following:

- a clear statement of whether a policy was violated and the responsibility of the respondent
- summary of evidence or findings that supported the determination
- summary of evidence or findings (if found relevant) that did not support the determination and the rationale for the conclusion

4. Within 15 calendar days of the receipt of the Committee's determination, the HR Director will send a written decision to the complainant, the respondent, indicating the determination of a policy violation and the rationale based on the findings.

If the complaint was substantiated, such action may consist of:

- If the respondent is a student: required educational assignments, disciplinary action, suspension or expulsion from the College and/or eviction from Perry Hall (if applicable). Disciplinary decisions may be contested by employing appropriate appeals procedures in the student conduct policy and/or Perry Hall handbook.
- If the respondent is an employee (including student employees): disciplinary action may include, but is not limited to, verbal/written disciplinary warnings, termination, demotion, reassignment, suspension, reprimand, or training, consistent with the provisions of any applicable collective bargaining agreement or personnel policy. Disciplinary decisions may be contested by employing the appropriate grievance procedure.
- If the respondent is a third party: issuance of a persona non grata letter for which appeals are not available.

If the President is the respondent, the written determination of the committee will be communicated to the Chair of the Regional Board of Trustees of Corning Community College and the Chair will issue a written decision indicating what action, if any will be taken. The Chair's decision will be final.

**Note:** All of the time limits specified in either the informal or formal resolution stage of this complaint procedure may be extended upon written notification from the HR Director or designee(s) to the respondent and the complainant.

If the complainant is dissatisfied with the decision on a discrimination complaint and appeal/grievance outcome, they may elect to file a complaint with one or more state and federal agencies.

*Warning! If you are reading a printed copy of this document, you may not have the current information. Please go to the College website for the latest version of this procedure.*