

## Equal Opportunity and Affirmative Action Procedures – Reporting Policy Violations

**REPORTING:** Whether or not the harasser has been confronted, if an employee believes that harassment or discrimination by any person including, but not limited to, co-worker, supervisor, vendor, or guest of the College has occurred or if an employee or student believes they have witnessed harassment or threats to a safe environment or discrimination, the employee or student is strongly encouraged to report the facts of the incident and the names of the individual(s) involved within forty-eight (48) hours, if at all possible.

Employees should report to any of the following individuals: the employee's supervisor, any other supervisor, a member of the Human Resources staff, or directly to Rayon Brown, Affirmative Action/EEO Officer at (920) 735-4820, [brown@fvtc.edu](mailto:brown@fvtc.edu) or Susan Kaufman, Associate Director – Human Resources, (920) 735-2574, [kaufmans@fvtc.edu](mailto:kaufmans@fvtc.edu) or Deb Gorman, Vice President – Human Resources, (920) 996-2813, [gorman@fvtc.edu](mailto:gorman@fvtc.edu).

If an employee reports a violation to a supervisor, manager, administrator, or AA/EEO Officer the person to whom the report is made **must immediately notify** Susan Kaufman or, in her absence, Deb Gorman.

A student should report to any of the following: Tony Duff, Student Conduct Manager, 920-225-5913, Jayme Bowman, Security Services Manager, (920) 735-5691 or Derek Reiter, Security Services Coordinator (920)996-5177.

**You are required, however, to report the harassment or discrimination to somebody in administration.** All complaints should be filed promptly, within 30 days of occurrence if at all possible. All complaints must be filed within 300 days. Prompt reporting will assist the College in conducting a thorough and timely investigation. Harassment and discrimination situations can be sensitive. The College will investigate all allegations promptly, thoroughly and fairly; and will ensure confidentiality to the extent possible.

The College treats all claims of harassment and discrimination seriously. The College representative conducting the investigation shall obtain a complete and clear statement of the alleged acts from the complainant, shall obtain names and statements from witnesses, and shall obtain a clear and complete statement from the alleged harasser/accused employee. All employees are required to cooperate fully in any investigation.

All employees and students are responsible for helping to assure that harassment and threats to safety do not occur. The College forbids retaliation against anyone who has legitimately reported harassment, unsafe conditions, discrimination or anyone who participates in an investigation. Anyone who engages in or assists in such retaliatory actions will be subject to disciplinary action up to and including the termination of employment.

# DISCRIMINATION OR HARASSMENT COMPLAINT PROCEDURE – EMPLOYEES AND STUDENTS

## Introduction

The College has adopted a procedure to address complaints of harassment or discrimination prohibited by several federal and state laws as specified in College policy.

Use of these procedures is encouraged to afford the Complainant and the College the opportunity to promptly address and resolve complaints at the lowest level. Use of the procedures does not preclude the right of an employee to also file complaints with the State of Wisconsin Department of Workforce Development, the U.S. Equal Employment Opportunity Commission, or the U.S. Wage and Hour Division in the Department of Labor as may be appropriate. Students may also file a complaint with the Department of Education, Office of Civil Rights. Most anti-discrimination laws have a time limit of from one hundred eighty (180) to three hundred (300) days during which an individual may file a complaint. The College reserves the right to determine whether a complaint appropriately falls within the scope of College policy.

## I. Definitions

A. **Complaint:** Complaint means an allegation of personal discrimination or harassment as defined by law and College policy.

College policy applies when a member of the College community ('complainant' as defined below) believes that he or she has been subjected to harassment or discrimination by a student or instructional, administrative, or faculty member ('respondent'), provided that at least a substantial portion of the alleged wrongful behavior either occurred on College-controlled, College-leased or College-owned property, or otherwise had a significant connection to the activities of the College.

B. **Complainant:** Complainant means any of the following who have a personal complaint based on their protected status as defined:

1. An employee, regular, project, or limited term, of Fox Valley Technical College.
2. An employee or group of employees of Fox Valley Technical College submitting a complaint all of whom have indicated, in writing, his/her willingness to be part of the complaint.
3. An applicant for employment with Fox Valley Technical College.
4. A student in an Associate Degree Program, Technical Diploma Program, Certificate Program, English Language Institute, Adult Basic Education, and Alternative High School, taking one class, or participating in a workshop or other educational activities.

C. **Respondent:** Respondent means a person and/or persons alleged to be responsible, or who may be responsible for the violation alleged in a complaint. The term may be used to designate persons with direct responsibility for a particular action or those areas covered in the complaint.

D. **Affirmative Action/EEO Officer:** The employee designated by the Fox Valley Technical College District Board who has the responsibility of coordinating the internal complaint procedure.

E. **Days:** All days listed in this policy are regular business days when the College is open for business. Weekends, holidays, and days when the campus is closed for business are excluded.

## II. **Complaint Procedure**

A. A complainant shall, as soon as possible and within thirty (30) days of the date of the action causing the complaint, contact an identified College official. If the subject of the complaint is the Affirmative Action/EEO Officer, then the complainant shall contact the Vice President of Human Resources who will then administer this complaint procedure.

B. The complaint may be verbal or in writing. The complainant shall provide full and complete information on the facts underlying the complaint. The College will prepare a written report of the complaint. The complaint should include:

1. Complainant's name, address, telephone number and e-mail address;
2. The name of the person who is accused with a violation of this Code;
3. The date(s) on which the alleged incident(s) occurred;
4. The place(s) where the alleged incident(s) occurred;
5. A statement describing, in detail, the alleged incident(s);
6. The name, address, e-mail and telephone number of any witnesses;

C. The Affirmative Action/EEO Officer shall inform the complainant of his/her rights under College policy.

D. The Affirmative Action/EEO Officer shall determine if the complaint is valid under the established complaint procedure. Validity does not mean whether or not an unfair act has occurred but whether or not the action underlying the complaint is within the scope of the complaint procedure.

E. Upon receipt of the complaint, the Affirmative Action/EEO Officer shall determine whether College policy applies. A decision by the Affirmative Action/EEO Officer that College policy does not apply is not final and may be appealed to the President within seven (7) days. By way of example, the Affirmative Action/EEO Officer shall find that College policy does not apply upon determining any of the following:

1. That even if the complainant's allegations are true, the respondent's conduct would not constitute harassment or discrimination as defined in College policy.

2. That the alleged conduct did not occur on College-owned, College-leased, or College-controlled property or did not otherwise have a significant connection to the activities of the College.<sup>1</sup>
3. That the complainant is not a College member as defined in College policy.
4. That the complainant was not the party harmed by the discrimination or harassment.

This list is not exclusive, and other situations may result in the Affirmative Action/EEO Officer determining that the policy does not apply.

F. If the Affirmative Action/EEO Officer determines that College policy applies, the Affirmative Action/EEO Officer or designee shall conduct an investigation of the complaint in any manner the Affirmative Action/EEO Officer deems appropriate.

When a formal investigation is initiated, the Affirmative Action/EEO Officer or designee will meet with the person filing the complaint and the person accused to review the written complaint, collect or request all relevant evidence and documents and review interim measures, if any.

Witnesses may be interviewed, relevant documentation gathered and reviewed and follow-up meetings with the person filing the complaint and the person accused may occur. The person conducting the investigation may seek a voluntary resolution to the complaint at any time and the results of such resolution shall be documented.

The person conducting the investigation will retain all records and notes of the investigation and shall prepare a written report, including the summary of findings and outcomes, including sanctions or remedial actions. The person conducting the investigation may use College or other external resources, including peers or colleagues to assist in the preparation of the written report.

G. If the person conducting the investigation finds that the evidence does not justify a finding of violation, the person conducting the investigation will dismiss the complaint. A decision by the Affirmative Action/EEO Officer that the evidence does not justify such a preliminary finding of violation may be appealed by the complainant to the Vice President, Human Resources by an employee or by a student to the Vice President of Instruction, Dr. Christopher Matheny within seven (7) days by presenting a written complaint. If no complaint appeal is timely filed, the complaint will be dismissed, and the complainant, respondent and Vice President, Human Resources will be notified.

H. At any point in the investigation, the Affirmative Action/EEO Officer or the Vice President of Human Resources or the Vice President of Instruction, Dr. Christopher Matheny may attempt to conciliate the informal complaint through contact with all

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<sup>1</sup> Refer to Off Campus Conduct at p. 4 of Equal Opportunity Policy

parties involved. Any agreement reached as a result of conciliation shall be in writing and signed by all parties involved.

I. Depending on the nature of the incident report, the complexity of the issues and events, number and availability of witnesses, the amount of information to be gathered and reviewed and other factors, the College will attempt to complete the investigation in 20 to 60 calendar days. Additional time may be necessary in order to conduct a fair and equitable investigation. The person filing the incident report and the accused will be informed periodically of the status of the investigation.

While the College will exercise reasonable diligence in complying with the timelines and procedures outlined, deviations may occur in order to meet the intent of the policy or to ensure the fair and equitable resolution of a reported incident. The person filing the incident report or the respondent should report any procedural errors or deficiencies to the EEO/AA Officer or it shall be deemed waived. A procedural error or deficiency shall not require an outcome in favor of the person allegedly disadvantaged by the error.

J. **Resolution:** The College's policy is to investigate all such complaints thoroughly and promptly. To the fullest extent practicable and consistent with Wisconsin statutes, the employer will keep complaints and terms of their resolution confidential. If an investigation confirms that discrimination or harassment have occurred, the employer will take appropriate corrective action including discipline up to and including immediate termination of employment or issue sanctions to a student to prevent recurrence of the conduct and to correct its effects. In the event that a violation is found, the College shall take action to remedy the situation and ensure compliance with the policy.

### III. **Restrictions**

A. No action relating to student sanctions or to employment, termination, transfer, demotion, or rates of pay of an employee can be taken until the complaint has been resolved, unless such action is decided necessary to the well-being of the complainant and/or to the function of Fox Valley Technical College.

B. Neither the complainant nor the respondent shall arbitrarily delay action of the complaint procedure.

C. All proceedings shall be in closed session.

D. All participants in all proceedings under College policy will observe confidentiality to the extent reasonably possible. However, in the event of any final determination of a violation of College policy, the President will provide appropriate information to appropriate officials. The College may also use any information obtained in the proceedings to defend itself against any claims, complaints, or allegations brought against it or as may be required by law.

### IV. **Information**

The Fox Valley Technical College District shall provide complainants and respondents,

with access to copies of anti-discrimination laws and regulations, as well as relevant Fox Valley Technical College policies.

The College representative conducting the investigation shall maintain full documentation during the investigation, including the complaint, all statements, documents, notes, and other information relevant to the complaint.

**V. No Retaliation**

No person shall be subjected to discharge, suspension, discipline, harassment, sanctions, or any form of discrimination for having utilized or having assisted others, in good faith, in the utilization of the complaint process.

**VI. Maintenance of Records**

A. Records shall be kept of each complaint in the office of the Affirmative Action/EEO Officer. These shall include, at minimum: the name of the complainant and her/his position at Fox Valley Technical College District; the date of complaint filing; the specific allegation made in the complaint and any corrective action requested; the names of respondents; the resolution, dates; a summary of the major points, facts and evidence presented by each party to complaint; and a statement of the final resolution and the nature and date of any corrective action taken. Such records shall be maintained on a confidential basis.

B. All written complaint records shall be maintained for a minimum of three (3) years after the complaint resolutions.

**VII. Role of the Affirmative Action/EEO Officer**

A. It is the primary responsibility of the Affirmative Action/EEO Officer to ensure the effective installation, maintenance, processing, recordkeeping, and notification required by the complaint procedure.

B. The Affirmative Action/EEO Officer may designate other person(s) to assist in any part of the process and procedure.

**VIII. Interpretation**

A. The authority to interpret College policy and these procedures rests with the President and is generally delegated to the Affirmative Action/EEO Officer. Questions about College policy or these procedures should be referred to the Affirmative Action/EEO Officer.

**IX. Referral Services**

- A. State of Wisconsin Department of Workforce Development
- B. Equal Employment Opportunity Commission
- C. Department of Education, Office of Civil Rights
- D. Wisconsin Technical College System (students)