

<b>Procedure:</b>	Discrimination Complaint Procedure	<b>Procedure No.:</b>	GA2001.1
<b>Authority:</b>	College President	<b>Associated Policy Reference No.:</b>	GA2001
<b>Procedure Owner:</b>	General Administration	<b>Responsible Party:</b>	Human Resources
<b>Approved:</b>	September 30, 1998		
<b>Revised:</b>	October 13, 2015		

## **Commitment**

SUNY Broome Community College is committed to maintaining a learning and work environment that is free from discrimination and harassment. As such, SUNY Broome Community College does not discriminate on the basis of race, sex, color, religion, age, national origin, disability, marital status, sexual orientation, or veteran status in the recruitment of students, in the recruitment and employment of faculty and staff, or in the operation of any of its programs and activities. State and federal laws apply where relevant.

## **Discrimination Complaint Procedure**

In accordance with SUNY Broome Community College's non-discrimination commitment and applicable law, SUNY Broome Community College maintains a Discrimination Complaint Procedure. This procedure provides for prompt investigation and resolution of allegations of discrimination, including allegations of sexual harassment which federal law defines as a form of discrimination based on sex. The Discrimination Complaint Procedure is non-adversarial and fact-finding in nature. It does not supplant any other complaint or grievance procedures provided for by collective bargaining agreement or the student code of conduct.

A complainant using this procedure retains the right to file a complaint with the appropriate state and/or federal agency in accordance with their respective filing requirements and deadlines. The complainant is not required to pursue the SUNY Broome Community College procedure before filing a complaint with a State or Federal agency. Further, if the complainant chooses to pursue the SUNY Broome Community College procedure, the complainant is free to file a complaint with the appropriate state or federal agency at any point during the process. Upon filing with an external agency, however, the SUNY Broome Community College internal complaint procedure will be terminated and the matter referred to the Broome County Law Department for review, defense or, if deemed appropriate by counsel, involvement in mediation, conciliation or settlement with the external agency where the complaint was filed, or such other actions as may be in the interests of the College.

## **Retaliation**

Complainants and those persons who assist in or cooperate in the investigation of a complaint will not be subject to retaliation by any member of the college community for submitting and pursuing a complaint under this procedure.

## **Confidentiality**

To the extent possible, the complaint procedure will respect the confidentiality of the parties involved. A discussion concerning potential discrimination may remain confidential with no action being taken when an individual wishes only to make an inquiry and does not disclose any identifying information about herself or himself or about the other party (ex: name, department, and unit). However, even in the absence of a written complaint, the College may be legally obligated to take some action once it has reason to believe that discrimination may be occurring.

## **Scope**

The Discrimination Complaint Procedure may be used by SUNY Broome Community College students, faculty, staff, campus organizations, and other individuals who believe they have been victims of discrimination in violation of federal, state, or local laws, or in violation of SUNY Broome's non-discrimination commitment. The procedure will be published in the Employee Information booklet and in the Student Handbook.

The Affirmative Action Officer is a resource person for information concerning discrimination and for people who believe they have been subjected to discrimination. Information about the Affirmative Action Office will be posted in each campus building along with the name, office location, and phone number of the Affirmative Action Officer. Additionally, people who have been subjected to discrimination should feel free to contact and seek the assistance of, among others, chairs, deans, and supervisors.

## **Definitions**

*Informal Complaint* - An informal complaint may take the form of an inquiry or discussion with the Affirmative Action Officer or another college representative. An informal complaint need not be in written form. It may or may not involve the complainant disclosing identifying information about him or herself or about a respondent.

*Formal Complaint* - A formal complaint is a written, dated, and signed document which alleges a violation of federal, state, or local anti-discrimination laws or regulations, or of SUNY Broome's non-discrimination commitment, and details the facts that the complainant believes support that complaint.

*Complainant* - An individual or organization that submits a complaint under this procedure.

*Respondent* - The respondent is the person the complainant claims is responsible

for violations alleged in a complaint. The term may be used to designate persons with direct responsibility for a particular action, or persons with supervisory responsibility for procedures and policies in the areas covered in the complaint.

*Affirmative Action Officer* - A resource person for those who believe they have been subjected to discrimination. The Affirmative Action Officer is charged with making recommendations to the President to insure that SUNY Broome complies with federal, state, and local anti-discrimination laws and with SUNY Broome's non-discrimination commitment.

*College representative* - A counselor or someone who works in an administrative or supervisory capacity at the college, such as a department chair, a dean, or a supervisor.

*Day* - A business day, i.e., a day when the college is officially open.

## **Discrimination Complaint Procedure for Review of Allegations of Unlawful Discrimination**

### **A. Informal Complaint**

Anyone may seek advice, information, or assistance in dealing with matters related to discrimination without having to file a formal complaint. Such matters frequently can be resolved on an informal basis.

Persons who feel they are being subjected to discrimination, or who are uncertain as to whether what they are experiencing is discrimination, are encouraged to talk to the Affirmative Action Officer, to another college representative, such as a counselor, or someone who works in an administrative or supervisory capacity at the college, to the Human Resources Officer, a director, a department chair, a dean, or a supervisor. A college representative who receives an informal complaint should seek the assistance of the Affirmative Action Officer in responding to an informal complaint.

The aim of informal complaint resolution is to ensure that the alleged offending behavior ceases and that the matter is resolved as expeditiously as possible. During the informal resolution process, the person seeking information and advice will be counseled as to the options for action available to her or him.

There are several ways of resolving a matter informally. For example, the Affirmative Action Officer or the college representative working with the person bringing an informal complaint might offer advice on how the individual might resolve the matter directly with the other party, or might serve as an informal mediator, working with both parties to assure that the offending behavior stops.

The college representative responding to an informal complaint should maintain a file about the situation and the outcome of the informal complaint.

### **B. Formal Complaint**

Any party who chooses to file a formal complaint alleging unlawful discrimination or discrimination in violation of SUNY Broome non-discrimination commitment shall file the complaint with the Affirmative Action Officer. Formal complaints are written, dated and signed by the complainant (SUNY Broome Community College Discrimination Complaint form, Appendix A). The Affirmative Action Officer shall provide assistance to any complainant needing help to prepare his/her complaint. The Affirmative Action Officer shall also inform the complainant of those additional internal and external avenues through which a complaint may be filed, including the applicable time limits for filing with each agency.

Within 2 days after receiving a formal complaint, the Affirmative Action Officer shall give a copy of the complaint to the respondent.

The Affirmative Action Officer shall seek to resolve the complaint through informal mediation. She/he shall have the right to conduct an investigation and shall have access to all information relevant to the case. If within 20 days from the date of the filing of the complaint, the Affirmative Action Officer is able to resolve the complaint by this process, she or he shall close the case, sending a written notice to the complainant and respondent.

If the evidence supports a finding that there is no basis for a complaint alleging discrimination, the Affirmative Action Officer shall recommend, in writing, to the President, the complainant, and the respondent that the case be closed. The President may accept that finding and may direct the Affirmative Action Officer to close the case. If the complainant is dissatisfied with a decision to close a case, the complainant may file a formal complaint with the appropriate state or federal agency in accordance with the agency's filing deadlines.

After investigating the case and in consultation with the Human Resources Officer and the college attorney, the Affirmative Action Officer shall make a recommendation to the President as to the resolution of the case. The recommendation shall include a synopsis of the case and evidence collected with an analysis of such evidence and rationale for the recommendation.

Within 20 days after receiving the complaint, the President shall make his or her determination as to whether or not unlawful discrimination or discrimination in violation of the College's non-discrimination commitment occurred. The President shall send a letter to the complainant and the respondent with his or her decision. The Affirmative Action Officer will receive a copy of the letter.

If the complainant is dissatisfied with the President's response, the complainant may file a formal complaint with the appropriate state or federal agency, in accordance with agency filing requirements

**C. Employees may seek relief through the following:**

- a. Equal Employment Opportunity Commission, NY District Office, 33 Whitehall Street, New York, NY 10004
- b. New York State Division of Human Rights, 44 Hawley Street, Room 603, Binghamton, NY 13901
- c. Court action

**D. Students may seek relief through the following:**

- a. U.S. Department of Education, Office for Civil Rights, 32 Old Slip, 26th Floor, New York, NY 10005
- b. New York State Division of Human Rights, 44 Hawley Street, Room 603, Binghamton, NY 13901

**8. Court action Further Provisions for Formal Complaint Procedure**

- A. Time limits in each step of the procedure may be extended by mutual written agreement of the complainant and respondent.
- B. If the Affirmative Action Officer or the President fails to review or respond within the time limits provided, the complainant may proceed to the next step.
- C. If the complainant fails to pursue an action within the time limits provided, the complaint shall be deemed to have been withdrawn, unless evidence is provided to the Affirmative Action Officer to show good cause for the delay.
- D. The statute of limitations for filing with the Equal Employment Opportunity Commission (EEOC) is 300 calendar days, with the Office for Civil Rights of the U.S. Department of Education is 180 calendar days, and with the New York State Division of Human Rights is 365 calendar days from the date of the alleged discriminatory behavior.
- E. In the event that the complaint is against the President of the College, the Affirmative Action Officer will contact the Chairperson of the SUNY Broome Community College Board of Trustees to discuss the situation. In consultation with the Board of Trustees and/or the college attorney, an external hearing officer may be appointed. The external hearing officer will perform the actions of the Affirmative Action Officer. The external hearing officer shall make his or her recommendation to the Chairperson of the Board of Trustees. The President will not be involved in any aspect of the case, except as respondent.
- F. In the event that the complaint is against the Affirmative Action Officer, the complainant should contact the President, who will then appoint an external hearing officer. The external hearing officer will facilitate the complaint through this complaint procedure, performing all of the functions of the Affirmative Action Officer. The Affirmative Action Officer will not be involved in any aspect of the complaint, except as respondent.

<b>Action</b> <i>(Created, Reviewed, Retired)</i>	<b>Date</b>	<b>Initials</b>	<b>Position Title</b>
<i>Reclassification (5.18)</i>	10/05/2020	DL	<i>Assistant to the President</i>

Appendix A  
SUNY Broome Community College  
Discrimination Complaint

***This form is to be used by students, faculty, staff, organizations, and other individuals to file a formal complaint of discrimination based on race, sex (including sexual harassment), color, religion, age, national origin, disability, marital status, sexual orientation, or veteran status.***

1. Name \_\_\_\_\_ Phone No. \_\_\_\_\_

' Faculty ' Staff ' Student ' Campus organization ' Other \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

2. Alleged Discrimination is based on (Please check all that apply):

' Race or color ' Religion ' National Origin ' Disability ' Marital Status ' Age

' Veteran status ' Disability ' Sex (Sexual Harassment) ' Sexual Orientation

3. Date(s) of occurrence (on or about) \_\_\_\_\_  
(mm/dd/yyyy, if known; mm/yyyy if approximate; or if ongoing give date range)

4. Respondent(s) Name(s) \_\_\_\_\_

Title (if known) \_\_\_\_\_

5. Please check the appropriate box:

- I choose to utilize the informal complaint procedure as described in the SUNY Broome Community College DISCRIMINATION COMPLAINT PROCEDURE.
- I choose to utilize the formal complaint process as described in the SUNY Broome Community College DISCRIMINATION COMPLAINT PROCEDURE.

6. Have you filed a charge with a federal, state or local government agency? ' Yes ' No

If yes, with which agency? \_\_\_\_\_

7. Briefly describe the nature of the complaint. (Use additional sheet if necessary.)

8. I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

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