



The Commonwealth of Massachusetts
Board of Higher Education
Massachusetts Community Colleges

POLICY ON AFFIRMATIVE ACTION

- Berkshire Community College
- Bristol Community College
- Bunker Hill Community College
- Cape Cod Community College
- Greenfield Community College
- Holyoke Community College
- Massachusetts Bay Community College
- Massasoit Community College
- Middlesex Community College
- Mount Wachusett Community College
- North Shore Community College
- Northern Essex Community College
- Quinsigamond Community College
- Roxbury Community College
- Springfield Technical Community College

Implemented Date: July 1, 2004

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**CERTIFICATE OF APPROVAL
FOR MASSACHUSETTS COMMUNITY COLLEGES
AFFIRMATIVE ACTION PLAN**

The Commonwealth of Massachusetts' Community Colleges' Affirmative Action Plan has been approved for implementation by the Colleges and the Board of Higher Education, effective July 1, 2004.

This Plan shall replace the previous Plan, which was approved by the Chancellor of the Board of Higher Education and covered the period from July 1993 to June 1996. This Plan shall remain in full force and effect until a successor Plan is approved.

/s/ Judith I. Gill

Chancellor
Board of Higher Education

A. OVERALL POLICY STATEMENT

The Community Colleges have carefully developed and outlined the major elements of an effective Affirmative Action Plan with the understanding that a successful plan requires more than the knowledge of laws, regulations and current government requirements. It demands leadership, vision, and commitment to fully comprehend what challenges Community Colleges face in preparing students for the twenty-first century. The Colleges, both collectively and individually, commit themselves to not only the valuing of human dignity, but to the appreciation of the necessity of providing all members of the College Community an experience that equips them to relate to all persons and groups in the increasingly global and diverse world in which we all live and work.

The Community Colleges wish to take a role of leadership in providing an environment where equity and diversity are truly valued beyond verbal commitments and mere tolerance. This leadership role requires that we all share responsibility for making constructive campus-wide changes in response to the principles set forth in this Plan. By turning our collective energies into making Affirmative Action an integral part of campus life, we continue to fulfill our mission in developing the talents and potential of all members of our College Communities and our society.

B. POLICY STATEMENT ON AFFIRMATIVE ACTION, NON-DISCRIMINATION, AND DIVERSITY

The Board of Higher Education of the Commonwealth of Massachusetts is responsible under Chapter 15A of the General Laws of the Commonwealth of Massachusetts for the overall governance of the public higher education system, which includes the fifteen Community Colleges. The Board of Higher Education and the Boards of Trustees of the Community Colleges maintain and promote a policy of non-discrimination on the basis of race, creed, religion, color, gender, sexual orientation, age, disability, genetic information, maternity leave, and national origin. Further, this policy incorporates by reference, and where applicable, the requirements of Federal Executive Orders 11246 and 11375 as amended; the Civil Rights Act of 1964 as amended; the Civil Rights Restoration Act of 1988; the Civil Rights Act of 1991; Title IX of the Higher Education Amendments of 1972 as amended; Sections 503 and 504 of the rehabilitation act of 1973; the American with Disabilities Act of 1990; Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974; and pertinent laws; regulations and executive orders; directives of the Board of Higher Education, the Boards of Trustees of the Community Colleges and the Commonwealth of Massachusetts, and other applicable local, state and federal statutes.

Non-discrimination requires the elimination of all existing unlawful discriminatory conditions, whether purposeful or inadvertent. The Community Colleges are continuing to systematically examine all policies and procedures to be sure that they do not, if implemented as stated, operate to the detriment of any person on the basis of race, creed, religion, color, gender, sexual orientation, age, disability, genetic information, maternity leave, and national origin. The Colleges shall require that the practices of those responsible in matters of employment and education, including all supervisors and faculty, are non-discriminatory. Should the College discover discrimination in treatment or effect in any employment, educational or service decision, action, inaction or practice within the College, all appropriate corrective and/or disciplinary actions shall be taken under the direction of the President of the College subject to any applicable collective bargaining agreement or other policy or procedure of the College.

The Community Colleges are committed to a policy of Affirmative Action, equal opportunity, equal education, non-discrimination, and diversity. They are committed to providing a learning, working and living environment for their students, employees and other members of the College Community, which values the diverse backgrounds of all people. The Colleges are committed to assuring that the “College Experience” is one that challenges, empowers, supports, and prepares its students to live in, work in, and value our increasingly global and diverse world. The Colleges believe that the diversity of socio-economic, racial, ethnic, religious, gender, sexual orientation, age and disability backgrounds of members of the College Community enriches the institutions and their various constituencies. The Colleges will not tolerate behavior based on bigotry, which has the effect of discriminating unlawfully against any member of their communities.

The Community Colleges provide equal access to educational, co-curricular and employment opportunities at the Colleges for all applicants, students and employees in compliance with all applicable laws, regulations and policies. All benefits, privileges and opportunities offered by the Colleges are available to all students, employees and other persons having dealings with the institutions on a non-discriminatory basis. The Colleges are committed to taking a pro-active

Affirmative Action posture with respect to their recruitment, selection and promotion of students and employees.

The purpose of this Affirmative Action Plan is to establish a set of programmatic objectives, which shall provide for the recruitment, access and advancement of qualified persons of color, women and persons with disabilities with respect to employment and enrollment opportunities. The intent of this Plan is to responsibly recognize, and to whatever extent possible, resolve the effects of past societal discrimination and the impact which that discrimination has had, not only on persons of color, women and persons with disabilities, but on the total academic, educational and social system as well. It is not intended and should not be used to discriminate against any applicant, employee, or student because of race, creed, religion, color, gender, sexual orientation, age, disability, genetic information, maternity leave, and national origin.

In response to that recognition, the Colleges, through their Boards of Trustees and Presidents, fully endorse the plan of action set forth in this Plan and shall oversee and monitor its implementation.

The following specific policies are established:

- Equal opportunity and affirmative action shall apply to all segments of the College; full and part-time employment; day and continuing education; the curriculum and offerings of the College.
- Equal opportunity and affirmative action shall be applied to the recruitment process for employment and/or access to education.
- Students will have access to the College, programs of study, activities, and other resources intended to serve them, according to the policies of the individual Colleges.
- Equal employment opportunity and affirmative action will be realized in all personnel employment, including recruitment, application for employment, hiring, benefits, compensation, training, promotion, and termination.
- All policies, procedures, privileges, and conditions of the College will follow and incorporate applicable equal opportunity and affirmative action rules and regulations.

The above-stated policies are intended to be broad on behalf of the protected groups and the goal of promoting diversity in Community Colleges. The Community Colleges pledge to apply all policies consistently, fairly, and vigorously. Attempts to subvert or abuse these policies will not be tolerated. Appropriate disciplinary action will be taken in the case of an infraction. Such disciplinary action shall be consistent with the appropriate collective bargaining agreement, if applicable.

All policies are made in compliance with applicable laws and executive orders promulgated by the federal and state governments and other appropriate agencies and authorities.

C. DEFINITIONS

AFFIRMATIVE ACTION OFFICER (“AAO”): A College employee assigned responsibility for administering the College’s Affirmative Action Plan, including the maintenance of specified records. If the Affirmative Action Officer is the person against whom the grievance is filed, the President shall designate another College official to act as the Affirmative Action Officer.

DAY: As used in this policy, shall mean a calendar day.

FORMAL GRIEVANCE OR COMPLAINT: A written complaint alleging a violation of the Affirmative Action Plan.

GRIEVANT: The student(s) or employee(s) filing the grievance.

INSTRUCTIONAL PERIOD: The academic semester, summer session or intersession when a Grievant knows or should have known of a grievable act or inaction. The Instructional Period shall end on the last day of final exams.

PERSONS WITH DISABILITIES: Any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

PROTECTED CLASSES UNDER THIS POLICY: Pursuant with Massachusetts General Laws, Chapter 151B and 151C, a person is protected against discrimination under this policy based on his/her: race, creed, religion, color, gender, sexual orientation, age, disability, genetic information, maternity leave status, criminal record and national origin. If at anytime subsequent to the implementation of this Plan, these laws are amended to include additional protected categories, individuals in those categories shall be protected against discrimination under this Plan. Protected class status may also be extended to individuals covered by those federal laws and other policies outlined in Section B of this Plan.

REPRESENTATIVE: As referred to under the Grievance Procedure of this Plan, a representative for a unit member shall be a union representative or College employee, for a non-unit employee the representative shall be a College employee, and for a student the representative shall be another student, a College administrator or faculty member.

RESPONDING PARTY: The person against whom a grievance is directed.

SEXUAL ORIENTATION: Actual or perceived homosexuality, heterosexuality, or bisexuality, either by orientation or by practice. For purposes of this Plan, “sexual orientation” is synonymous with the Massachusetts statutory term “sexual preference.”

TIME: The number of days indicated at each level shall be considered as a maximum. All reasonable efforts shall be made to expedite the process, but the President or his/her designee may extend the time limits in extenuating circumstances with notice to both parties in writing, or by mutual written agreement between the Grievant and the Responding Party.

THE FOLLOWING RACES ARE DEFINED UNDER STATE AND/OR FEDERAL LAW AS FOLLOWS:

Black: All persons having origins in any of the Black racial groups of Africa.

Hispanic: All persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

Cape Verdean: All persons having origins in the Cape Verde Islands.

Asian or Pacific Islander: All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands and Samoa.

American Indian or Alaskan Native: All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

D. SPECIFIC POLICIES

I. SEXUAL HARASSMENT

a. Introduction

It is the goal of the Community Colleges to promote an educational environment and workplace that is free of sexual harassment. Sexual harassment of students or employees occurring in the classroom or the workplace is unlawful and will not be tolerated by the Community College. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by students or employees.

Because the Community Colleges take allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

b. Definition of Sexual Harassment

In Massachusetts, the legal definition for sexual harassment is this: "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment or academic decisions; or,
- (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's academic or work performance by creating an intimidating, hostile, humiliating or sexually offensive learning or working environment.

Under these definitions, direct or implied requests by a supervisor or instructor for sexual favors in exchange for actual or promised job or academic benefits constitute sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a hostile, offensive, intimidating, or humiliating workplace or academic environment to male or female workers or students may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances -- whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and,
- Discussion of one's sexual activities.

All employees and students should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the Community Colleges.

c. Complaints of Sexual Harassment

If any student or employee believes that he or she has been subjected to sexual harassment, the student or employee has the right to file an Affirmative Action Grievance Form (see Appendix A) with the College.

If you would like to file a grievance you may do so by contacting the College's Affirmative Action Officer, Thomas L. Saltonstall, at 250 Rutherford Avenue, Room E236F, Boston MA 02129 or by calling him at 617-228-3311. The Affirmative Action Officer is also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process. If the Affirmative Action Officer is the person against whom the grievance is filed, the President shall designate another College official to act as the Affirmative Action Officer.

d. Sexual Harassment Investigation

When we receive a grievance alleging sexual harassment, the matter is handled pursuant with this Policy's Grievance Procedure. The grievance procedure will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. If it is determined that a violation of this policy has occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate we will also impose disciplinary action. Such disciplinary action shall be consistent with the appropriate collective bargaining agreement, if applicable.

e. Disciplinary Action

If it is determined that a violation of this policy has occurred, the College will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment or expulsion from the College. Such disciplinary action shall be consistent with the appropriate collective bargaining agreement, if applicable.

f. State and Federal Remedies

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with the governmental agencies set forth below. Filing a grievance under this Policy does not prohibit you from filing a complaint with these agencies.

United States Equal Employment Opportunity Commission ("EEOC")

John F. Kennedy Federal Building, Room 475
Boston, MA 02114
(617) 565-3200.

Massachusetts Commission Against Discrimination ("MCAD")

Boston Office: One Ashburton Place
Rm. 601
Boston, MA 02108
(617) 727-3990

Springfield Office: 424 Dwight Street
Rm. 220
Springfield, MA 01103
(413) 739-2145

The Office For Civil Rights, U.S. Department of Education ("OCR")

Department of Education
John W. McCormack Post
Office and Courthouse
Room 222
Boston, MA 02109
(617) 223-9662

II. SUPPORT OF PLURALISM

The Community Colleges have historically been a major contributing element to the emergence of our nation as one of the most technologically and economically advanced societies of the world. The important role that the Community Colleges can play is profoundly dependent upon the extent to which they may draw from the full collective of intellectual resources within each College's community of scholars, students, and administrators. Any condition or force that impedes the fullest utilization of the human and intellectual resources available represents a force of destructive consequence for the development of our Commonwealth, and ultimately, our nation.

Community College students, faculty, staff and visitors must be free from conduct that has the purpose or effect of interfering with an individual's academic or professional performance and creating an intimidating, hostile or demeaning educational or employment environment. Therefore, the Community Colleges establish a policy of unequivocal condemnation of all forms of ethnic, religious, cultural, or racial intolerance within the fifteen College communities.

This policy condemns all conditions and all actions or omissions, including all acts of verbal

harassment or abuse, which deny or have the effect of denying to an individual his/her rights to equality, dignity and security in violation of his/her rights guaranteed under the law. The policy reaffirms the doctrine of civility, appreciation for pluralism and the pre-eminence of individual human dignity as preconditions to the achievement of an academic community that recognizes and utilizes the resources of all persons while recognizing and reaffirming the tenets of academic freedom. The Community Colleges recognize their obligation to protect the rights of free inquiry and expression, and nothing herein shall be construed or applied so as to abridge the exercise of rights under the Constitution of the United States and other federal and state laws.

The Community Colleges will vigorously strive to achieve diversity sufficiently reflective of our society. However, diversity alone will not suffice. There must be a unity and cohesion in the diversity that we seek to achieve, thereby creating an environment of pluralism.

The Community Colleges bear a responsibility by edict and an obligation by social morality to promote understanding and acceptance of ethnic, cultural, religious and racial diversity as we strive to create an atmosphere of dignity for all individuals and groups within our system of public higher education. The President or his/her designee will take reasonable measures to prevent and discourage harassment and will act positively to investigate alleged harassment and to affect a remedy or resolution when an allegation is determined to be valid.

III. NON-DISCRIMINATION AND ACCOMMODATION FOR PERSONS WITH DISABILITIES

The Community Colleges recognize the multitude of barriers that confront persons with disabilities in access to both employment and education. Consistent with state and federal statutes that affirm and protect the equal opportunity rights of persons with disabilities, the Community Colleges adopt a policy of non-discrimination and equal opportunity for otherwise qualified persons with disabilities.

a. In Employment

The Community Colleges will take constructive measures to ensure equal opportunity in all areas of employment including recruitment, selection, upgrading, opportunities for training and development, rate of compensation, benefits and all other terms and conditions of employment. Further, the Colleges will examine all existing employment policies, practices and facilities to assure that they do not disparately treat or impact otherwise qualified persons with disabilities. Where such disparity is found, it will be corrected as quickly and completely as is reasonable under existing circumstances. Accordingly, all College facilities may not be available and accessible at a particular time.

In accordance with State and Federal laws, reasonable accommodations will be afforded to any otherwise qualified disabled employee to enable such employee to perform the essential functions of his/her job. Reasonable accommodations will also be afforded to disabled applicants for employment to enable them to adequately pursue a candidacy for any available position. Any reasonable accommodations provided by the Colleges will be provided to the extent that such accommodations do not impose any undue hardship on the Colleges in the conduct of their operations.

b. In Education

The Colleges will examine all existing admissions, student support and other student life policies, practices and facilities to assure that they do not disparately treat or impact otherwise qualified disabled persons. Where such disparity is found, it will be corrected as quickly and completely as is reasonable under existing circumstances. Accordingly, all College facilities may not be available and accessible at a particular time.

The Colleges will adopt a policy of non-discrimination with respect to admissions, access to programs and facilities and services for all otherwise qualified disabled persons.

In accordance with State and Federal law, the Colleges will provide necessary reasonable accommodations to otherwise qualified students with disabilities to assure equal access to programs, facilities and services.

Any employee or student who believes he/she has been a victim of discrimination due to a disability may file a complaint pursuant to the Grievance Procedure contained herein. Further information may be obtained by contacting the Affirmative Action Officer or the Office for Disability Services.

IV. GENDER AND SEXUAL ORIENTATION DISCRIMINATION

The Colleges are committed to providing a working, living and learning environment that utilizes the resources of all members of the College community and develops the talents of all of its students without regard to gender or sexual orientation. Any condition that interferes with the development of talents by causing discrimination based on gender or sexual orientation constitutes a destructive force within the College community.

The Colleges hereby prohibit all forms of discrimination on the basis of gender or sexual orientation. This prohibition bars all acts that have the effect of denying to any person equality of right, entitlement, benefit or opportunity by reason of such person's gender or sexual orientation. Harassment by personal vilification is prohibited whenever such harassment is based on a person's gender or sexual orientation.

Examples of actions that may constitute discrimination on the basis of a person's gender or sexual orientation include, but are not limited to:

1. Differences in salaries (or other benefits) that are paid to one or more men and one or more women if the differences are not based on a bona fide occupational qualification.
2. Classifying a position or positions as being suitable only for persons of one gender or of one particular sexual orientation.
3. Developing position descriptions or qualifications that, without lawful justification, are so specific as to have a disparate exclusionary impact on one gender.
4. Using information on marital or parental status for employment decisions where the use of such information has an adverse impact on persons of one gender or sexual orientation.

5. Treating or causing others to treat persons of one gender or sexual orientation differently from persons of the other gender or another sexual orientation differently because of assumptions about or stereotypes of the intellectual ability, interests or aptitudes of persons of a particular gender or sexual orientation.

6. Harassing or abusing or encouraging others to harass or abuse a person or group of persons because of their gender or sexual orientation, whenever such harassment or abuse constitutes harassment by personal vilification.

Any employee or student who believes he/she has been a victim of gender or sexual orientation discrimination may file a complaint pursuant to the Grievance Procedure contained herein. Further information may be obtained by contacting the Affirmative Action Officer.

V. CONSENSUAL RELATIONSHIPS

A consensual relationship may constitute sexual harassment under this Policy. When a professional power differential exists between members of the College and a romantic or sexual relationship develops, there is a potential for abuse of that power, even in relationships of apparent mutual consent. Consenting romantic and/or sexual relationships where a professional power differential exists, such as that between faculty and student, librarian and student, administrator and student, classified staff member and student, or supervisor and employee, are considered unprofessional. Because such relationships have the potential to interfere with or impair required professional responsibilities and relationships, they are looked upon with disfavor and are strongly discouraged. An employee in such a relationship should remove himself or herself from decisions affecting the other person in the relationship. Decisions affecting the other person include grading, evaluating, supervising, or otherwise influencing that person's education, employment, or participation in any other College activity.

VI. ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

Massachusetts law prohibits discrimination in employment, housing and public accommodation against any person with a physical or mental impairment which substantially impairs one or more major life activities, has a record of such impairment, or is regarded as having such impairment. Discrimination against a person who has Acquired Immune Deficiency Syndrome (AIDS), or who is perceived to have, or be at a risk of having AIDS, is a violation of both state and federal discrimination laws (please see Section III *Non-Discrimination and Accommodation for Persons with Disabilities*). For purposes of this Plan, the following practices are illegal:

- to refuse to hire or advance in employment, or otherwise discriminate against, a qualified person who has AIDS, is perceived to have AIDS, or is perceived to be at risk of having AIDS; or
- to make a pre-employment inquiry as to whether an applicant has AIDS or is at risk of having AIDS.

Any employee or student who believes he/she has been a victim of AIDS discrimination may file a complaint pursuant to the Grievance Procedure contained herein. Additionally, the MCAD will receive, investigate and resolve, by conciliation or adjudication, complaints of AIDS-related

discrimination that are filed with the agency in accordance with its rules and procedures. Please refer to Section D(I)(f) of this policy for MCAD contact information.

VII. CONTRACTING AND PURCHASING

When selecting contractors, suppliers, and vendors of goods and services, including goods and services secured in connection with construction projects, the Colleges will offer equal opportunity to all qualified persons and entities and will not discriminate on the basis of race, creed, religion, color, gender, sexual orientation, age, disability, veteran status, marital status, genetic information, or national origin.

The Colleges shall use reasonable efforts to attract and encourage bid proposals from qualified minority and female contractors, subcontractors, vendors and suppliers. The Colleges are strongly encouraged to identify businesses primarily operated by members of such protected classes with the help of agencies such as the State Office of Minority and Women Business Assistance.

When transacting business with contractors, vendors and suppliers, the Community Colleges shall include in all contracts the following statement:

Non-Discrimination in Employment: The Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, sexual orientation, religion, genetic information or disability. The Contractor agrees to comply with applicable federal and state statutes, rules and regulations prohibiting discrimination in employment, including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act of 1990, Massachusetts General Laws, Chapter 151B and all applicable administrative orders and executive orders.

The Colleges reserve the right to disqualify as a contractor any person or entity that fails to adhere to the prohibitions against discrimination in employment that are contained in this section.

E. IMPLEMENTATION OF AFFIRMATIVE ACTION PLAN

The implementation of an effective affirmative action plan is ultimately the responsibility of the President of each Community College. The President will direct the Affirmative Action Officer to coordinate the overall development, administration and monitoring of all affirmative action programs, policies, procedures and regulations. The Affirmative Action Officer will report directly to the President, or his/her designee, and will bear responsibility for the preparation and execution of all affirmative action policies and programs.

Consistent with all collective bargaining and non-unit employee agreements, each supervisor will seek to ensure that affirmative action and equal opportunity are integrally tied to all aspects of any recruitment, hiring, training or advancement related decisions to which they are a party. They will be aware of goals and will consult with the Affirmative Action Officer prior to and in the course of such actions.

F. AFFIRMATIVE ACTION OFFICER

The Affirmative Action Officer (“AAO”) shall have the task of infusing affirmative action into all aspects of the College. He/she shall be responsible for the development, administration and evaluation of affirmative action policies, procedures, programs and goals; serve as monitor of local, state and federal laws and regulations relating to affirmative action and equal opportunity and compliance thereof; and administer to all segments of the College - students and employees.

The AAO will analyze the College’s work force composition. The AAO may also analyze specific work areas or divisions within the College to determine if under-utilization of any protected group exists. The development of goals and timetables to correct any identified under-utilization shall be the responsibility of the AAO with input from the appropriate administrative officers. Although the basic responsibility for implementation of the affirmative action/equal opportunity program necessarily rests with the administrative officers of the College, the Affirmative Action Officer is responsible for providing advice and assistance.

The AAO shall be an ex-officio member of the Affirmative Action Committee and shall facilitate this Plan’s Grievance Procedure.

G. DISSEMINATION OF PLAN

The Affirmative Action Plan will be widely distributed and discussed within the College Community. A copy of the Plan will be distributed to every major work area at each College and a copy will be maintained in the Library and the Affirmative Action Office. Copies of the Plan will be made available upon request to any student, employee, applicant for student status or for employment or member of the community. The Plan is available upon request from the College's Affirmative Action Officer.

In accordance with state and federal requirements, the following notice will be included in all vacancy postings and other appropriate college publications, contracts, solicitations for bids, purchase orders, and leases:

“Bunker Hill Community College is an affirmative action/equal opportunity employer and does not discriminate on basis of race, creed, religion, color, gender, sexual orientation, age, disability, genetic information, maternity leave, and national origin in its education programs or employment pursuant to Massachusetts General Laws, Chapter 151B and 151C, Title VI, Civil Rights Act of 1964; Title IX, Education Amendments of 1972; Section 504, Rehabilitation Act of 1973; Americans with Disabilities Act, and regulations promulgated thereunder, 34 C.F.R. Part 100 (Title VI), Part 106 (Title IX) and Part 104 (Section 504). All inquiries concerning application of the above should be directed to the College's Affirmative Action Officer and the College's Coordinator of Title IX and Section 504, Thomas L. Saltonstall, 250 New Rutherford Avenue, Room E236F, Boston, MA 02129 or by calling him at 617-228-3311.”

H. AFFIRMATIVE ACTION PLAN OF ACTION

I. Program Purpose and Intent

The Community Colleges are committed to a policy of equal opportunity and affirmative action. The purpose of this Plan is to establish programmatic objectives that will provide for the access and advancement of qualified minorities, women, and persons with disabilities with respect to both employment and education. The intent of this Plan is to acknowledge and responsibly alleviate the effects of societal discrimination and its impact on the protected group.

II. Scope

Affirmative action and equal opportunity shall be viewed as an integral part of the mission and purpose of each Community College. The Affirmative Action Policy by its very nature shall affect and apply to all aspects of recruitment, employment and education.

The opportunity for education for students in the protected group will be an imperative. Affirmative action programs should support not only student admissions to the College but also its programs.

In employment, affirmative action will affect recruitment, terms and conditions of employment, administrative procedures and relevant policies and practices of the College.

III. Workforce and Utilization Analysis

A procedure for implementation of the Plan will be undertaken and it will include opportunities for maximum communication between the responsible parties, i.e., supervisors, the Affirmative Action Officer and the President. A workforce and utilization analysis shall be conducted annually.

IV. Under-Utilization

Under-utilization exists when the number of females and minorities in an occupational category is fewer than would reasonably be expected based upon the availability of qualified persons for employment. When under-utilization is identified for appropriate organizational units and occupational categories, goals and timetables are established as a means of increasing the employment of qualified females and minorities at the earliest possible time. This section shall be applied in a manner consistent with the appropriate collective bargaining agreement, if applicable.

V. Goals

Hiring goals are targets for increasing the employment of qualified women and minorities in appropriate organizational units and/or occupational categories of the College workforce. Hiring goals are not rigid quotas. They are reasonable estimates of what is attainable and are established separately for women and minorities.

Program goals include special efforts to remove barriers, to improve awareness or sensitivity, to

address problem areas identified within the College Affirmative Action Plan, to bring about conditions that will promote the hiring goals, or to address changes taking place within the institution.

General timetables are to be established for the implementation of the goals. The time period shall normally be between two (2) and five (5) years.

VI. Identification of Problem Areas and Remedial Approaches

At the request of the Chancellor, the President shall submit a report to the Chancellor as referenced in Auditing and Reporting and shall include an analysis of problem areas and possible solutions and may cover such issues as curricular concerns, employment and student recruitment, hiring, retention of employees, resignations, and College activity and program availability. It will also consider and give an analysis of the established goals and timetables.

VII. Programmatic Efforts

The Community Colleges have, as a group, committed themselves to a policy of affirmative action/equal opportunity and non-discrimination throughout this Plan. The Colleges realize, however, that the development and implementation of specific programmatic efforts, both individually and collaboratively, will be essential to the establishment of an action oriented program. Rather than rendering affirmative action plans that merely represent a compilation of policies, procedures and prohibited practices solely designed to avoid discrimination, these action-oriented elements ensure that this Plan becomes a pro-active, aggressive tool as opposed to a passive document.

a. Collaborative Efforts

In an effort to fully establish joint collaborative programs that will enhance the implementation of the Community Colleges' Affirmative Action/Equal Opportunity Plan, the Affirmative Action Officers of the fifteen institutions are encouraged to work cooperatively to the following programmatic initiatives.

1. Recruitment Directory

A directory of recruitment resources may be developed for each major category of positions (i.e., academic discipline, administrative area, field of focus) listing the various known sources for contact. This directory will list individuals, departments, institutions, organizations, professional associations and their various caucuses that are known to be good sources for minority, female or disabled applicants. In addition, the directory will also contain a listing of major publications such as newspapers, journals or other periodicals that print job advertisements and have substantial circulation among women, minorities, disabled persons and other appropriate persons or groups. Trade or professional journals for each academic discipline and professional area will also be included.

2. Program of Professional Enrichment for Personnel of Affirmative Action Offices

The Affirmative Action Officers will develop a program of professional enrichment for affirmative action office personnel which will include workshops, seminars and other kinds of enrichment opportunities that will assist them in the performance of their duties. Insofar as possible, reliance will be placed on the expertise of persons within the public higher education system, local, state and federal agencies, and professional organizations and associations in order to keep costs to a minimum.

3. Educational Seminars

The Affirmative Action Officers, collectively or individually, may develop seminars to strengthen the understanding and sensitivity of all employees, and in particular senior administrators and supervising managers, to the importance of their respective roles in fostering a workplace free of discrimination, harassment and retaliation. All members of the College community shall be encouraged to attend such programs.

b. Individual Campus Efforts

Specific programmatic efforts determined by the individual Colleges may take any of several forms: projects, programs, defined strategies, structured activities or other tactical steps that contribute to fulfillment of the Colleges' affirmative action and equal opportunity goals and objectives. Each College may develop specific programs to assist in identifying and overcoming deficiencies, increasing representation of qualified minorities, women and disabled persons within the work force and the student body and providing increased opportunities for under-represented groups, both in the area of employment and in the area of the student learning environment. Cross-cultural programming, sensitization of all members of the College communities to the rights and needs of all persons, including minorities, women and persons with disabilities will play a major part. The involvement of all segments of the College community in both the planning and the implementation of such programming will be an essential factor in its success.

I. HIRING GUIDELINES

Proper hiring guidelines are crucial to the success of attracting and hiring a qualified, diverse workforce. The Human Resources Office shall work in consultation with the Affirmative Action Officer in developing proper hiring guidelines. The hiring process will be initiated with the development of a recruitment plan, which shall be reviewed by the Affirmative Action Officer for each hire before commencing with advertisement. These plans will be reviewed in light of the College's affirmative action goals and will include the use of applicable mailing lists of contacts and resume file, if any, developed and maintained for affirmative action recruiting. Goals will be reviewed at the time of recruitment.

When practicable, the time permitted between the initial public announcement of an available position and the deadline for submission of applications must allow for adequate selective recruitment of qualified minorities, women and disabled persons.

For all vacancies for positions that are half-time or greater, the Affirmative Action Officer will consult with the hiring manager to determine an appropriate recruitment time frame which will allow sufficient time to recruit under-utilized persons while simultaneously meeting the organization's need to fill the position as soon as possible.

Deans and Vice Presidents are encouraged to plan ahead and schedule all searches so as to allow sufficient time to conduct effective affirmative action searches.

If the recruitment process fails to yield sufficient numbers of qualified candidates from a designated protected group, consideration may be given to reposting the position. This section shall be applied in a manner consistent with the appropriate collective bargaining agreement, if applicable.

The Affirmative Action Officer shall have access to all applications for the purpose of reviewing and certifying the process and the outcome and for the purpose of collecting data to conduct applicant flow studies, etc. Additionally, the Affirmative Action Officer may make recommendations for interviewing affirmative action candidates.

The hiring process will include an interview with a search committee, which may include the position's direct supervisor and/or other appropriate persons who have responsibility in the work area. The Affirmative Action Officer will review each recommendation for appointment and sign it to verify compliance with affirmative action procedures. If the Affirmative Action Officer finds that the recruitment and/or selection process does not satisfy affirmative action requirements, he/she should submit his/her reservations to the President.

In regard to promotions, the College will comply with all applicable collective bargaining provisions when making such promotion decisions.

J. AFFIRMATIVE ACTION COMMITTEE

An Affirmative Action Committee shall be established consisting of at least seven (7) members representative of faculty, administrators, non-teaching professionals, classified staff and students. The Committee shall include protected group representation. The members shall be appointed by the President. The Affirmative Action Officer shall be an ex-officio member of the Committee.

The Committee shall act as a policy advisory body to the President in all matters concerning affirmative action and equal opportunity. Specific responsibilities of the Committee may include, but are not limited to, the following:

1. Advise and assist the President and the Affirmative Action Officer in developing, implementing and evaluating the College's Affirmative Action Program;
2. Recommend changes in the program or policy;
3. Represent the concerns and problems of all employment areas of the College as these problems relate to equal opportunity;
4. Be informed about the rules and procedures of the College as well as federal and state laws and regulations governing affirmative action and equal opportunity;
5. Meet as necessary, but not fewer than two (2) times a year; and
6. Help sensitize and educate the College community regarding the affirmative action issues facing higher education and the larger society and to help broaden understanding of diversity in our society as well as to encourage behaviors appropriate to a pluralistic society.

K. AUDITING AND REPORTING

Primary responsibility for monitoring compliance and auditing the implementation of the Affirmative Action/Equal Opportunity/Diversity Plan rests with the Affirmative Action Officer and the Title IX/Section 504 Coordinator. These officers shall furnish the President with progress reports and shall inform the President of practices or policies that may not be in compliance with the policy of affirmative action, non-discrimination and equal opportunity.

The Affirmative Action Officer will annually review the progress being made toward achievement of the College's affirmative action goals. The review shall include the goals and timetables in order to recommend revisions that may be required as a result of changes in federal or state law, availability figures, institutional performance or other circumstances that affect the implementation of this policy. In addition, he/she will assure that annual compliance reports required by the Board of Higher Education and other state and federal agencies are completed. The Title IX/Section 504 Coordinator will review annually the progress made toward complying with current legislation, the Affirmative Action/Equal Opportunity/Diversity Plan, and the actions taken to ensure equal opportunity and affirmative action to all disabled students and employees.

To ensure compliance with this Plan, the Affirmative Action Officer and the Title IX/Section 504 Coordinator will also review and evaluate the applicable policies, programs and activities related to job requirements, performance criteria, personnel benefit plans, students support services, facilities and programmatic access, vendor contract submission and services, media advertising and public relations materials, including all College publications. Recruitment and hiring procedures will be monitored using the methods described in this Plan. All monitoring and analyses will be conducted as necessary to identify problem areas and provide recommendations to remedy them.

The Affirmative Action Officer shall conduct periodic audits of the utilization analysis and goals. The purpose of the audit will be to assess progress toward established goals and to apprise other persons responsible for recruitment of the findings. Continuous monitoring is important to the success of the plan. The findings, while utilized throughout the year, will be reported formally in the annual report. Problem areas and successes will be reported. Additionally, compliance reports requested by other agencies should be included as an internal audit mechanism.

L. GRIEVANCE PROCEDURE

When employees or students believe their equal opportunity rights have been breached the grievance process is a mechanism for resolution. Prior to the filing of a formal written grievance under this Plan, the parties to a dispute are strongly encouraged to attempt to reach an informal resolution of the dispute. It is recommended that the Affirmative Action Officer be consulted with and participate in any efforts by the parties to informally resolve a grievance. An informal resolution is achieved through open dialogue between the parties that allows for the airing of any misunderstandings or disputed issues.

At any point during the Affirmative Action grievance procedure, either party may request mediation by contacting the Affirmative Action Officer. Mediation shall be mutually agreed upon, and not unreasonably refused by either party. The Affirmative Action Officer, or the President's designee, shall select an impartial mediator who shall be mutually agreed upon and not unreasonably refused by either party, make the arrangements, determine the timetable for the mediation process, and inform the parties of the timetable in writing. Where practicable, a mediation session shall be conducted no later than thirty (30) days after requested and agreed to by the parties. The purpose of mediation is to resolve the dispute to the satisfaction of both parties. Mediation is not appropriate for attempting to resolve grade disputes.

The following rules apply throughout all phases of the grievance process: (1) all parties to a grievance may have a representative accompany them; (2) the filing of a grievance under this Plan shall not preclude a grievant from pursuing a complaint in a separate legal forum; and (3) if a grievance involves a grade dispute, a student may process the grievance only in accordance with the Student Grievance Procedure, even if the student alleges that a grade was improper because of discrimination.

I. Step 1 – Affirmative Action Officer Investigation

When a Grievant believes that he/she has been discriminated against because of his/her race, creed, religion, color, gender, sexual orientation, age, disability, genetic information, maternity leave, criminal record or national origin, the Grievant may file a formal written complaint in writing with the Affirmative Action Officer. For a student grievant, a formal complaint may be filed within thirty (30) calendar days following the instructional period when the Grievant knew or should have known of the grievable act. For an employee grievant, a formal complaint may be filed within thirty (30) calendar days from when the Grievant knew or should have known of the grievable act. The grievance shall contain a statement of all known facts pertaining to the alleged violation and shall be filed on the Affirmative Action Discrimination Grievance Form (see Appendix A), which shall be available from the Affirmative Action Officer. If a student is involved, the Affirmative Action Officer shall notify the Vice President or Dean of Student Services.

During Step 1, the Affirmative Action Officer has the authority to seek to resolve the grievance through an administrative remedy. If the parties accept the administrative remedy proposed, its terms shall be reduced to writing and the Affirmative Action Officer shall retain the document, with copies to the parties. Thereafter, the matter shall be considered resolved between the parties.

Once a formal written complaint is filed with the Affirmative Action Officer, the Affirmative Action Officer will notify the Responding Party, in writing, of the grievance (see Appendix B), and provide the Responding Party with a copy of the grievance. The timeliness of such notification shall be in accordance with the appropriate collective bargaining agreement, if applicable. The Responding Party shall have fifteen (15) calendar days from receipt of notice to submit to the Affirmative Action Officer a written response to the grievance.

Where practicable, within thirty (30) calendar days from the date the Respondent's written response was received, or if none was submitted, when due, the Affirmative Action Officer shall complete an investigation of the complaint and prepare and issue a Report of Preliminary Findings to the parties. The Affirmative Action Officer's report shall specify the investigation taken and summarize his/her findings. The report shall be delivered to the parties in hand or by certified mail. The investigation shall include, but is not limited to, an analysis of the allegations and defenses presented, consideration of all relevant documents and materials presented by the parties, interviewing the parties and/or other individuals or witnesses, and/or requesting and reviewing certain documents or materials in the possession of either party that are relevant to the grievance.

Thereafter, the parties will have ten (10) calendar days from the date of their receipt of the report to submit Rebuttal Statements to the Affirmative Action Officer. The parties may present no new information at that time. Within seven (7) calendar days of receiving the parties' Rebuttal Statements, the Affirmative Action Officer shall prepare and submit a Report of Findings and Recommendations to the President for consideration.

II. Step 2 – President's Review

Within ten (10) calendar days of receipt of the Officer's Report of Findings and Recommendations, the President, or his/her designee, shall issue a written decision to the parties. The written decision shall be delivered in hand or by certified mail. The President's decision is final. If the President is the Responding Party in an Affirmative Action Grievance, then the Chair of the College's Board of Trustees shall designate a Board member(s) to administer Step 2 of the Grievance Process.

III. Collateral Rights of Employees

Any sanctions against an employee of the College shall be regarded as an administrative action subject to all terms and conditions of applicable collective bargaining agreements or personnel policies.

IV. Confidentiality

The Affirmative Action Grievance Procedure will be conducted as confidentially as possible to protect the privacy rights of all individuals involved. Information concerning the grievance may be shared with witnesses, union representatives and/or others during any phase of the procedure. All individuals with whom information is shared should be reminded of the confidentiality of the information and should be directed not to discuss with anyone else the information shared.

APPENDIX A - AFFIRMATIVE ACTION DISCRIMINATION GRIEVANCE FORM

AFFIRMATIVE ACTION DISCRIMINATION GRIEVANCE FORM

The purpose of this form is to record information required to initiate an investigation into an alleged violation of the College's Affirmative Action Plan.

Date Filed: _____ Date(s) of Alleged Discrimination: _____

A. Name (Print): _____

B. Check One: Student: _____ Employee: _____
Department/Division: _____

C. Type of alleged discrimination:

- | | | |
|--|---|--|
| <input type="checkbox"/> Race/Color | <input type="checkbox"/> Religion/Creed | <input type="checkbox"/> Age |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Gender | <input type="checkbox"/> Disability |
| <input type="checkbox"/> Sexual Harassment | <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Genetic Information |
| <input type="checkbox"/> Maternity Leave | <input type="checkbox"/> Criminal Record | <input type="checkbox"/> Other: _____ |

D. Name of individual(s) you believe discriminated against you:

E. Description of Grievance - please list the sequence of events, including dates, if possible, and any relevant facts and statements:

APPENDIX B - NOTICE TO RESPONDENT

Date:

To: _____, Responding Party

From: _____, Affirmative Action Officer

Subject: Affirmative Action Discrimination Grievance

This is to notify you that on _____ a grievance alleging a violation of the College's Affirmative Action Plan was filed against you with the College. A copy of the grievance is attached, as is a copy of the grievance procedure. Within fifteen (15) calendar days of your receipt of this notice, please submit to me a written response to the grievance.

I will be contacting you to schedule an appointment to discuss this matter. Please be advised that it is unlawful to retaliate against a student, employee or any other person in the College for filing a grievance or for cooperating in an investigation of a grievance.

All reasonable efforts will be made to maintain confidentiality during the grievance procedure in accordance with the Affirmative Action Policy. Further, if any disciplinary sanctions are imposed as a result of an investigation under the Affirmative Action Policy, all such sanctions shall be regarded as an administrative action subject to all terms and conditions of applicable collective bargaining agreements or personnel policies.

All questions concerning this matter should be addressed to the Affirmative Action Officer. Further, all parties to a grievance may have a representative accompany them throughout the process.

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