DUTCHESS COMMUNITY COLLEGE
SEXUAL HARASSMENT COMPLAINT PROCEDURE

Dutchess Community College, as a unit of the State University of New York, is committed to providing an educational environment free from sexual harassment, from the fear that it may occur, and from any reprisal against the complainant.

Sexual harassment is a form of discrimination based on sex, which is illegal and is a violation of Section 703 of Title VII of the Civil Rights Act of 1964. Any act of sexual harassment involving members of the college staff that suggests sexual cooperation as a condition of employment or of academic advancement cannot and will not be condoned by the College.

Consenting romantic and sexual relationships between a member of the professional staff and a student, a member of the support staff, or another member of the professional staff could also have the potential for an unequal distribution and possible misuse of power. It is important for the parties to realize that such a relationship may lead to problematic consequences.

The College recognizes the sensitive and damaging nature of sexual harassment and has developed formal procedures to investigate allegations and make subsequent recommendations for appropriate action. The College is legally obligated to respond appropriately to all inquiries and complaints.

DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is any unwanted verbal or physical advance, sexually-explicit derogatory statement, or sexually-discriminatory remark made in the workplace or classroom. Such statements, advances, or remarks constitute sexual harassment if they are offensive, objectionable, or humiliating as perceived from the point of view of a reasonable person.

Sexual harassment in an academic environment may involve the use of authority to emphasize the sexuality of a person in a manner which prevents or impairs that person's full enjoyment of educational or employment benefits.

The Equal Employment Opportunity Commission defines sexual harassment as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement;

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual;

3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile, or offensive working or academic environment.

INTRODUCTION

Sexual harassment in its many forms has a negative effect on the educational and work environment. The nature of sexual harassment on campus is such that individuals who believe that they have been
victims of sexual harassment may be reluctant to seek help. They may not initially go to the College Affirmative Action Officer or other designated campus administrators. However, they will often confide in a faculty or staff member with whom they feel comfortable.

Each member of the faculty and staff has a responsibility to be aware of sexual harassment and its negative consequences. More specifically, each member of the campus community should be informed about the College policy regarding sexual harassment and be familiar with the College procedures that address this behavior.

Individuals who are contacted by students or staff shall direct them to members of the College Sexual Harassment Advisory Staff described below. A list of the members of the Advisory Staff shall be made available in the Office of the Dean of Student Services and Enrollment Management and in the Office of the Director of Human Resources Management. It shall also appear in the student handbook; in the publication regarding sexual harassment, which is distributed to all students and staff; and in the Professional Staff Orientation materials.

EDUCATION

Knowledge and awareness regarding sexual harassment and its negative effects is necessary. Through education, the College shall appropriately confront this illegal behavior which can occur among students, faculty, and/or staff. It shall be the responsibility of the entire campus community to provide support and appropriate recourse for those who have been victims of sexual harassment. It is the campus community's responsibility as well to educate those whose behavior indicates the need to become more aware of the ramifications and results of sexual harassment to themselves, to those being harassed, and to the College community. The Office of Affirmative Action coordinates the education and training components of the sexual harassment policy and receives and responds to written complaints and formal grievances.

PROTECTION AND PRIVACY

Throughout the inquiry or complaint process, every effort shall be made to protect the individual bringing the complaint from reprisals and to protect the respondent from irresponsible complaints. The inquiry or complaint, will, whenever possible, be resolved at the lowest and least formal level possible. Every effort will also be made to protect the privacy of both complainant and respondent.

ADVISORY STAFF

A small group of trained advisors (the Advisory Staff) shall act as a resource for individuals who feel they may be experiencing sexual harassment. The Advisory Staff shall consist of the Associate Dean of Student Services and Enrollment Management; the Assistant Dean of Student Services and Enrollment Management; a counselor; and twelve additional members of the Dutchess Community College staff, chosen from faculty, administrators, and support staff. These twelve members of the Advisory Staff will be appointed by the President upon the recommendation of the Chairs of the ISC, the ASC, and the Director of Human Resources Management. There will be seven faculty members, two members of the administrative staff, and three members of the support staff, who shall each serve a two-year term, which may be renewed. The members of the Advisory Staff shall be trained to listen to and to provide support and advice to individuals who believe they have been victims of sexual harassment.
PROGRESSIVE STEPS IN THE RESOLUTION OF SEXUAL HARASSMENT CASES

INQUIRIES

An inquiry occurs when an individual first meets with an Advisory Staff member to discuss his/her experience and to inquire about the sexual harassment resolution process.

The College has a legal responsibility to be made aware of all inquiries regarding sexual harassment on campus. Advisory Staff members shall inform the Affirmative Action Officer upon receipt of an inquiry. The advisor shall consult with the Affirmative Action Officer in an effort to clarify the issues and determine if the individual is experiencing sexual harassment. Often, individual employees or students will be satisfied after one or two conversations with a member of the Advisory Staff and may return only to report the result of their own actions. As a result of an inquiry, the Affirmative Action Officer or advisor may talk informally with the staff or faculty member about his/her behavior. No file is established at the inquiry stage.

INFORMAL COMPLAINT PROCEDURES

A complaint occurs when a complainant wishes to pursue the allegation of sexual harassment, but does not want to initiate a formal grievance at this point. The following procedure is to be followed:

1. The Affirmative Action Officer/designee shall meet with the complainant in an effort to clarify the issues, determine a course of action, and agree upon a desired and appropriate resolution.

2. The Affirmative Action Officer/designee shall ask the complainant to detail his/her complaint in writing and sign and date the statement. Such a statement shall describe the problem in detail, including the effects of the problem and a proposed solution. A file is opened regarding the complaint.

3. The Affirmative Action Officer/designee will contact the respondent, give him/her a copy of the statement, and begin working toward a solution. If a solution mutually agreed to by the complainant and the respondent is reached within fifteen calendar days, both complainant and respondent receive a copy of the concluding statement. The investigation is closed.

4. If no solution is reached, the parties may agree to extend the time for a maximum of ten additional calendar days.

5. If no solution is reached at this point, the complainant may withdraw the complaint or move on to the College's formal grievance procedure for allegations of illegal harassment.

6. The procedures for an informal complaint must be commenced no later than ninety calendar days from the date of the alleged harassment act, or ninety calendar days after a final grade is received, if that date is later.

FORMAL SEXUAL HARASSMENT GRIEVANCE PROCEDURES

This procedure, which may be used by any Dutchess Community College student or employee, is in no way intended to supplant or duplicate any already existing grievance procedure. Grievance procedures established through negotiated contracts, academic grievance review committees, student disciplinary grievance boards, and any other procedures defined by contract or local by-laws, shall continue to operate as before. Neither does this procedure in any way deprive a complainant of the right to file with outside enforcement agencies such as the New York State Division of Human Rights,
the Equal Employment Opportunity Commission, the Office for Civil Rights of the Department of Health and Human Services, or the Wages and Hours Division of the Department of Labor.

Rather, this Formal Sexual Harassment Grievance Procedure provides an additional mechanism through which the College may identify and eliminate incidents of sexual harassment. The College recognizes and accepts its responsibility in this regard and believes that the establishment of this internal, non-adversary grievance process will benefit students, faculty, staff, and administration alike. This process shall permit investigation and resolution of problems without resorting to the frequently expensive and time-consuming procedures of state and federal enforcement agencies or courts.

A. Requirements for Filing Formal Grievances:

1. The formal grievance procedure begins with a written statement, either by the complainant or by the Affirmative Action Officer, outlining the complaint and requesting formal action be taken. The grievance will be submitted using forms provided by the College.

2. If the complainant has not followed the informal complaint procedures, he/she must file a formal grievance within ninety calendar days following the alleged harassment act, or within ninety calendar days after a final grade is received, if that date is later. If the complainant has followed the informal complaint procedures, he/she must file a formal grievance within fourteen calendar days following the conclusion of the informal complaint procedures.

3. Written formal grievances must be filed with the College’s Affirmative Action Officer. This office shall be the only office to retain files pertaining to sexual harassment cases.

B. Procedures for Processing Formal Grievances:

1. The Affirmative Action Officer shall receive any complaint of the alleged harassment, shall assist the complainant in defining the charge, and shall provide the complainant with information about the various internal and external mechanisms through which the complaint may be filed, including applicable time limits.

2. If the complainant chooses to use the procedure outlined in this policy, the Affirmative Action Officer shall assist the complainant in filling out the appropriate form, which shall be signed and dated. The complainant shall receive a copy of the form, with another copy sent to the respondent, who has ten calendar days to return his/her statement to the Affirmative Action Officer.

3. Within ten calendar days of receiving the respondent's statement, the Affirmative Action Officer shall review the positions of the complainant and respondent. If the Affirmative Action Officer deems that the charges are non-substantive, he/she will cease further procedures. The complainant then has the right to appeal this decision to the President. A copy of the Affirmative Action Officer's report shall be sent to both parties, with one copy retained for the Affirmative Action Officer's files.

4. If the Affirmative Action Officer deems the charges are substantive, he/she shall seek to resolve the complaint informally, shall have the right to all relevant information, and shall have the right to interview witnesses, including the right to bring together complainant and respondent. If a resolution is satisfactorily reached within fourteen calendar days, the Officer shall close the case, sending a written notice to that effect to the complainant and respondent. The written notice shall indicate the agreement reached by the complainant and respondent and shall be signed and dated by the complainant, the respondent, and the Affirmative Action Officer. A copy of the complaint and notice shall be retained in the Affirmative Action Officer's files.
5. If the Affirmative Action Officer is unable to resolve the complaint to the mutual satisfaction of the complainant and respondent within fourteen calendar days, the Officer shall so notify the complainant, advising the complainant of his/her right to proceed to the next step internally or to file with other appropriate agencies.

6. If the complainant chooses to proceed through the internal grievance procedure, the complainant shall notify the Affirmative Action Officer in writing within ten calendar days from the time of notification by the Affirmative Action Officer that the issue cannot be resolved informally.

7. Within ten calendar days of receipt, the Affirmative Action Officer shall notify the complainant and the campus President that a review of the matter shall take place by an ad hoc committee.

8. The ad hoc Formal Grievance Committee shall consist of five members. The Affirmative Action Officer shall choose two members, one from the Advisory Staff, and one from the College staff at-large; the respondent shall choose two members, one from the Advisory Staff and one from the College staff at-large. The members of the College staff may also be members of the Advisory Staff. These four members shall choose the fifth member, who shall be a member of the Advisory Staff, and who shall chair the Formal Grievance Committee.

9. The Formal Grievance Committee shall review the matter; shall have the right to all relevant information; and shall have the right to interview witnesses, including the right to bring together complainant and respondent. Both complainant and respondent shall be permitted rebuttal to the collected documents and summary of proceedings compiled by the Committee prior to the Committee's rendering of an opinion to the President.

10. Within twenty-one calendar days from the formation of the Committee, the Chairperson of the Formal Grievance Committee shall submit an opinion to the campus President as to whether or not sexual harassment has occurred.

11. The President or designee shall communicate the opinion of the Formal Grievance Committee verbatim and in writing to the complainant, the respondent, and to the campus Affirmative Action Officer within ten calendar days, together with a statement indicating his/her acceptance or rejection of the Committee's recommendation. The President will indicate his/her decision either to dismiss the charge, or to discuss appropriate redress with the complainant if unlawful harassment has been found.

C. Further Provisions on Time Limits:

1. All of the time limits contained above, with the exception of the ninety day limit on the initial filing of grievances, may be extended by mutual agreement of the complainant and the President or his/her designee.

2. If the complainant fails to respond within the time limits provided, or fails to request an extension, the grievance shall be deemed to have been withdrawn.

3. If the respondent fails to respond within the time limits, or fails to request an extension, the case automatically proceeds to the Formal Grievance Committee. In this instance, the Affirmative Action Officer shall choose the two members normally chosen by the respondent, as well as the two members the Officer would normally choose.
4. In the event of a question of the timeliness of any grievance, grievance appeals, or response, the date and signature of the document shall be determinative. Any notices or documents sent by mail must be sent via registered mail, and the date or receipt shall be determinative.

SANCTIONS

The sanctions for sexual harassment depend on the nature of the offense as well as the number of complaints with basis against an individual. Sanctions may range from a reprimand, recommendation for counseling, loss of merit increment, suspension without pay, to the recommendation that the College begin separate proceedings for the removal of tenure for tenured faculty, and for dismissal with just cause for other members of the professional staff, and appropriate sanctions for members of the support staff.

APPEALS

At the end of the proceedings, the complainant or the respondent may request a meeting with the President. Should such a meeting be requested, the complainant or respondent may be represented by counsel. If the complainant is dissatisfied with the President's response, either because of a negative finding or disagreement over what constitutes appropriate redress, the complainant may file a formal complaint with the appropriate State or Federal agency. The campus Affirmative Action Officer will provide information on State and Federal guidelines and laws and the names and addresses of enforcement agencies.

FILES

According to the University of the State of New York, The State Education Department's State Archives and Records Administration's Record Retention and Disposition Schedule CC-1, "Individual complaint or problem case files involving human rights, equal employment, or sexual harassment must be retained for six years after the last entry." After that period, a "Summary record for individual cases and/or a master summary record of all cases must be retained permanently." All files regarding cases of sexual harassment are to be kept in the office of the Affirmative Action Officer and in no other place. All persons will be notified, in writing, of any and all files regarding him/her and will be given the opportunity to review same.

MULTIPLE INQUIRIES AND COMPLAINTS

Multiple complaints with foundation about a respondent could result in a formal grievance taken by the College.

If there are unfounded inquiries or complaints by a complainant, the Affirmative Action Officer/designee shall inform the Dean of Student Services and Enrollment Management or the Director of Human Resources Management.

(DCC Board of Trustees, Resolution No. 102, 1993.)
This form is to be used to file a charge of Sexual Harrassment

1. Your Name: ____________________________________________________   Contact #: _________________________________
   Faculty / Staff/ Student Status : _________________________  Email : ________________________________________________
   Local Address: _____________________________________________________________________________________________
   Street        City                                   State   Zip
   Home Address: _____________________________________________________________________________________________
   Street        City                                   State   Zip

2. (a) Have you filed this charge with a Federal, State, or Local Government Agency?
   [ ] No     [ ] Yes     When?  _______/_____/________  Month   Day     Year

   (b) Have you initiated a suit or court action on this charge?
   [ ] No     [ ] Yes     When?  _______/_____/________  Month   Day     Year

3. The date that the alleged harrassment took place _______/_____/________      Is the alleged harrassment continuing?   ___________  Month   Day     Year
4. Describe briefly the act or acts which occurred and your reasons for concluding that it was sexual harassment (use extra paper if necessary):

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5. 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.

________________________________________________________________       ___________________________
Sign your name              Date

Please forward the completed and signed form to:  
Dutchess Community College
Office of Human Resources
53 Pendell Road
Poughkeepsie, NY 12601
Fax: 845-431-8595