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**Non-Discrimination  
Policy and Procedures**

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# **Non-Discrimination Policy and Procedures**

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## **I. Philosophy, Purpose, and Scope**

Frederick Community College (“FCC” or the “College”) is committed to the principles of equal opportunity and strictly prohibits discrimination against any person on the basis of age, ancestry, citizenship status, color, creed, ethnicity, gender identity and expression, genetic information, marital status, mental or physical disability, national origin, race, religious affiliation, sex, sexual orientation, or veteran status in its activities, admissions, educational programs, and employment.

All members of the College community are expected to abide by this non-discrimination policy and to comply with Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, (ADA), and amendments. Those persons found in violation of this policy may be subject to disciplinary action, up to and including separation from employment or expulsion, in addition to the penalties imposed under federal, state, or local law.

The College has discrimination complaint procedures which apply to all members of the College community where alleged violations of this non-discrimination policy are investigated. The College will attempt to respect the confidentiality of the complainant, the respondent, and witnesses, to the extent possible consistent with College legal obligations, the necessity to investigate allegations of misconduct, and to take corrective action when discrimination has occurred.

The College also prohibits any person from engaging in retaliation against any person who exercises in good faith, his or her own rights under College policy or other law, to complain of alleged discrimination, or who participates in or assists others in any investigation charge or proceeding related to alleged discrimination. All students and employees are expected to cooperate in the investigation of complaints of discrimination. Making knowingly false statements in such a proceeding, or intentionally failing to disclose material information, whether as a complainant, a respondent or a witness, is serious misconduct that could subject the individual to disciplinary action.

### **Equal Opportunity in Employment and Education**

Frederick Community College is an equal opportunity employer and complies with all applicable federal and state laws and regulations regarding nondiscrimination. All qualified applicants will receive consideration for employment. Frederick Community College is committed to a policy of equal opportunity for all persons and does not discriminate on the basis of age, ancestry, citizenship status, color, creed, ethnicity, gender identity and expression, genetic information, marital status, mental or physical disability, national origin, race, religious affiliation, sex, sexual orientation, or veteran status in its activities, admissions, educational programs, and employment. The College reports annually to the Maryland Higher Education Commission on its progress in achieving the goals of its Cultural Diversity Plan.

It is the responsibility of the entire College community to ensure an academic and work culture that values equal opportunity in employment and access to programs.

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## **Americans with Disabilities Act (ADA)**

It is the policy of Frederick Community College to provide equal access and opportunity to its programs, employment, facilities, and educational programs in compliance with federal law, including the American with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, and amendments.

## **II. Definitions for the Purpose of this Policy and Procedures**

- A. **“Student”** means an individual who is registered at the College, either full or part-time, in a credit or continuing education course or courses, who has either paid or made arrangement for payment of tuition and/or fees.
- B. **“Complainant”** means an individual who makes a complaint that a violation of the Non-Discrimination Policy has occurred.
- C. **“Respondent”** means an individual who has been accused of violating the Non-Discrimination Policy and is referenced in a complaint.
- D. **“Hearing Board”** refers to a group comprised of the Vice President for Learning Support (Chair); the Provost/Vice President for Academic Affairs; the Director of Diversity, Equity, and Inclusion; the Director of Student Engagement; and the Executive Director of Counseling and Advising (who also serves as the Chair of the Behavioral Evaluation and Response Team), or their designees. The Hearing Board serves as a hearing panel for complainant or respondent appeals of judgments/remedies/corrective action/sanctions imposed after a Non-Discrimination Policy violation investigation.
- E. **“BERT”** refers to the Behavioral Evaluation and Response Team and is comprised of College officials who receive and evaluate student and employee concerns regarding student behavior that may be disruptive, self-injurious, or potentially pose a risk of harm to the health, safety, or property of any person or of the College, or otherwise be dangerous.
- F. **“College Support Person”** means an employee of the College chosen to accompany and assist a complainant or respondent during an appeal hearing. Both the complainant and respondent are entitled to have a College Support Person of their choice. The College Support Person cannot be a fact witness or provide statements in the proceedings. The College Support Person is a non-participant who is present to assist a complainant or respondent by taking notes or providing emotional support and reassurance.
- G. **“College community”** includes trustees, students, and all employees of the College as well as any independent contractors or other third parties to the extent articulated under contractual agreements.
- H. **“Discrimination”** is treatment or consideration of, or making a distinction in favor of or against, a person or thing based on the group, class, or category to which that person or thing belongs rather than on individual merit. This includes treatment of an individual or group based on their actual or perceived membership in a certain group or social category.

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- I. **“Harassment”** is unwelcome or offensive conduct against a person based on his or her protected class. Harassment becomes unlawful where 1) enduring the unwelcome or offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create an environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws. Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create an environment that would be intimidating, hostile, or offensive to reasonable people. Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:
- The harasser can be the victim’s supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
  - The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.
  - Unlawful harassment may occur without economic injury to, or discharge of, the victim.
- J. **“Retaliation”** means intimidating, threatening, coercing, or discriminating against an individual for the purpose of interfering with any right or privilege secured by law or College policy relating to discrimination, or because an individual has made a report, filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding related to discrimination. Retaliation includes retaliatory harassment.
- K. **“Preponderance of the evidence”** means evidence which is of greater weight or more convincing than the evidence to the contrary; evidence which shows that something is more likely than not to be true or 50.1% likely to have occurred.
- L. **“Workdays”** means Monday through Friday and does not include weekends, holidays, scheduled breaks, or other days the College is closed.

### **III. Training, Education, and Prevention**

The College will be proactive and will, through educational programs, help faculty, staff, and students become aware of and recognize covert and subtle forms of discrimination and remove those institutional barriers to equal opportunity.

Prevention is the best tool to eliminate discrimination and harassment. The College will take appropriate steps to prevent and correct unlawful discrimination and harassment. The College, through this policy, clearly communicates that discrimination and harassment will not be tolerated. Notice of non-discrimination is posted throughout the campus and through the College website, and on all general publications. An effective complaint and appeal process is established. Anti-harassment and non-discrimination

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training for supervisors and employees is a part of the orientation process and is ongoing. The College will take immediate and appropriate action when an employee or student complains of discrimination or harassment.

Early reporting of discrimination and harassment to the Associate Vice President (AVP) for Human Resources can help prevent its escalation.

Notice of College non-discrimination and disability accommodations should be included in all public and published materials.

### **IV. Procedures**

The following procedures will be used to process complaints alleging discrimination in violation of this Non-Discrimination Policy. These procedures will be in addition to any complaint or charges an employee, applicant, or student files with local, state, or federal agencies. For all complaints of sexual misconduct, see the [Title IX Sexual Misconduct Policy and Procedures](#).

#### **Filing a Complaint**

Any employee, applicant, or student who alleges discrimination should file a written complaint with the AVP for Human Resources, Maryrose Wilson, Suite G223 of Gambrill Hall, Frederick Community College, 301-846-2436, [MWilson@frederick.edu](mailto:MWilson@frederick.edu). A discrimination complaint must be filed within 180 calendar days after the facts giving rise to the alleged violation has occurred to comply with federal regulations.

If the complaint is against the AVP for Human Resources, the complaint should be filed with the Vice President (VP) for Finance and Human Resources, Suite G223 of Gambrill Hall, Frederick Community College, 301-846-2458, [DMcDonald@frederick.edu](mailto:DMcDonald@frederick.edu).

#### **Assessment**

The AVP for Human Resources will work with other College staff to conduct an immediate assessment of the reported violation of the Non-Discrimination Policy. Immediate measures will be taken to ensure the safety and security of any individuals involved.

The AVP for Human Resources will conduct an initial meeting with the complainant and inform him/her of the process that will be used in response to the complaint, as well as the College policy prohibiting retaliation against complainants. The assessment will be completed within five (5) workdays of receiving a report of discrimination and the complaint will be documented appropriately. The complainant will be notified if an extension of time is needed. The assessment will determine if an investigation of the complaint as a violation of the Non-Discrimination Policy is warranted and, if so, on what basis.

#### **Informal Resolution**

Upon completion of the assessment, if the AVP for Human Resources determines that an investigation is not warranted, and the complainant agrees, the AVP for Human Resources may be able to resolve the complaint informally. In such cases, the AVP for Human Resources will confer with the complainant about this option, and, if they agree, the AVP for Human Resources will confer with the respondent, if necessary. Other College staff may be asked to participate in an informal resolution. Should a satisfactory

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informal resolution be reached, the matter will be considered closed. All informal resolutions will be appropriately documented by the AVP for Human Resources. If no investigation is warranted, the identity of the respondent will not be recorded.

### **Investigative Process**

The College **will** conduct an investigation if:

- (1) the AVP for Human Resources determines through the assessment that an investigation is warranted (a College-initiated investigation will occur with or without the complainant's consent); or
- (2) the complainant disagrees with the results of the assessment and requests an investigation.

In either case, the complainant and respondent will be notified within five (5) workdays of the College decision to initiate an investigation and they will be informed of the process that will be used.

The College will seek to conclude the investigation within 30 workdays of receipt of the initial written complaint from the complainant. Extended time for investigations may be necessary, in which case both parties will be informed.

The AVP for Human Resources will initiate a prompt, thorough, and impartial investigation. A notice of investigation will be delivered to all parties which contains a summary of the allegations at issue, the range of potential remedies/corrective action/sanctions. Along with the notice of investigation, the complainant and respondent will receive a notice of rights and responsibilities. Upon receipt of the notice of investigation, or at any stage in the process, the respondent may choose to accept responsibility for the Policy violation.

During the investigation, the complainant and respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. The AVP for Human Resources will speak separately with the complainant, the respondent, and any other individuals who have information relevant to the investigation. The AVP for Human Resources may gather or receive information that is relevant, including information about the impact of the alleged discrimination. The AVP for Human Resources will also gather any available evidence, including prior statements by the parties or witnesses, any communications between the parties, email messages, social media materials, text messages, and other records as appropriate and available. Members of the College community are expected to cooperate with the investigation.

At the conclusion of the investigation, the AVP for Human Resources will prepare a draft investigative report that summarizes the information gathered and synthesizes the areas of agreement and disagreement between the parties with any supporting information or accounts. Prior to finalizing the investigative report, the AVP for Human Resources will provide the complainant and respondent an opportunity to review the draft investigative report.

The complainant and respondent may submit any additional comments or information to the AVP for Human Resources within five (5) workdays of being provided the draft investigative report for review. This is the final opportunity for the parties to identify any additional information or witnesses and review their statements for accuracy. Should

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extenuating circumstances exist, consideration will be given to a request for an extended timeline and both parties will be notified.

After the five-day opportunity for both parties to review the draft investigative report, the AVP for Human Resources will submit the final investigative report, which incorporates any additional information provided by both parties, to the appropriate College employee(s) for a judgment based on the nature of the complaint as follows:

- For complaints involving only employees – to the supervising Associate Vice President or supervising Vice Presidents, or their designees
- For complaints involving only students – to the AVP/Dean of Students
- For complaints involving both a student and an employee – to the supervising Associate Vice President or supervising Vice Presidents, or their designees and the AVP/Dean of Students

### **Remedies/Corrective Action/Sanctions**

After reviewing the final investigative report, and meeting with the complainant and respondent separately, the appropriate College employee(s) will make a judgment as to whether there has been a violation of the Non-Discrimination Policy. Failure of either party to respond to a request for the meeting with the appropriate College employee(s) constitutes that the investigation report will stand. The judgment will be based upon a preponderance of the evidence and remedies/corrective action/sanctions will be imposed, if warranted. Both the complainant and the respondent will be notified in writing of the judgment and the remedies/corrective action/sanctions imposed within five (5) workdays of receipt of the final investigative report. Extended time for judgment may be necessary, in which case both parties will be informed.

### **Appeals**

The complainant as well as the respondent have the right to request a hearing to appeal the judgment and/or the imposition of remedies/corrective action/sanctions for Non-Discrimination Policy violations. Appeals shall be in writing and must be submitted to the AVP for Human Resources, Maryrose Wilson, Suite G223 of Gambrill Hall, Frederick Community College, 301-846-2436, [mwilson@frederick.edu](mailto:mwilson@frederick.edu) within five (5) workdays of the judgment/ remedies/corrective action/sanctions.

### **Appeal Hearing**

The Hearing Board will conduct a hearing on all appeals of judgment/remedies/corrective action/sanctions related to Non-Discrimination Policy violations. The hearing shall be closed to the public and will be taped or transcribed. Failure of the individual who requested the appeal to appear for the hearing, without prior notification or evidence of extenuating circumstances, waives his/her right for further appeal and the judgment and remedies/corrective action/sanctions will stand.

The first hearing session shall be limited to the complainant and respondent, other individuals with personal knowledge of relevant facts who will be presented as witnesses, and persons contractually engaged by the College for the purposes of the hearing (e.g., transcriptionists, etc.). Representation by legal counsel is not allowed in the hearing. Each party may have however, a College Support Person of their choice. During the hearing, the complainant and respondent will have an equal opportunity to be heard.

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The Hearing Board may then meet separately with each party in a session which will be closed to the other party. Likewise, the Hearing Board will meet with available witnesses in sessions, which will be closed to the parties.

After consideration of all relevant information, the Hearing Board will make its own determination by a preponderance of the evidence. The Hearing Board may affirm, modify, or reject the judgment/remedies/corrective action/sanctions regarding the policy violation, and/or return the outcome to the AVP for Human Resources to conduct additional investigation before completing its review. All Hearing Board decisions require a majority vote and shall be accompanied by an explanation of the rationale for the decision of the Hearing Board.

The Hearing Board will have five (5) workdays to make a determination as to whether to affirm, modify, or reject the judgment/remedies/corrective action/sanctions of the Non-Discrimination Policy violation. The Hearing Board may request additional information and direct the AVP for Human Resources to conduct further investigation and the five (5) day timeline may be extended. The AVP for Human Resources will notify both the complainant and the respondent of the need for additional time.

The Hearing Board shall issue its determination to the AVP for Human Resources. The AVP for Human Resources will then issue a formal notice of the Hearing Board decision to both parties, separately and simultaneously. The notice of the Hearing Board decision on the appeal shall include a reference to the specific discrimination at issue, a summary of the investigation and the Hearing Board stated rationale for its decision regarding the appeal of the judgment/remedies/corrective action/sanctions. Copies of the notice of the Hearing Board decision will be sent to the appropriate supervisor, department chair, Dean, and Provost or designee and other administrators, as necessary on a need-to-know basis. The decision of the Hearing Board will be final.

If the concern is not able to be resolved through the College internal appeal process, the Maryland Higher Education Commission has developed a complaint resolution process for students who are residents of the state of Maryland (<http://mhec.maryland.gov/highered/acadaff/mhecstudentcomplaintprocess.pdf>).

Although individuals are encouraged to seek resolutions to complaints within College processes, they also have the right to file any complaint directly with the applicable local, state, or federal agencies, at any time, which may include, but are not limited to:

Equal Employment Opportunity Commission (EEOC)  
10 Howard Street, Third Floor  
Baltimore, MD 21201

Maryland Commission on Civil Rights  
6 Saint Paul Street, Suite 900  
Baltimore, MD 21202-1631



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Office for Civil Rights, Philadelphia Office  
United States Department of Education  
Wanamaker Building  
100 Penn Square East, Suite 5151  
Philadelphia, PA 19107-3323

US Department of Justice  
950 Pennsylvania Avenue, NW  
Civil Rights Division  
Disability Rights Section – 1425 NYAV  
Washington, D.C. 20530

### **Confidentiality**

All parties and staff will keep the complaint, fact-finding process and conference or hearings confidential, except to the extent that it is necessary to investigate and process the complaint.

### **Reprisals and False Complaints**

Persons filing complaints of discrimination, harassment, or retaliation will be protected against reprisals by actions that are appropriate to the circumstances. Those persons filing deliberate false complaints will be subject to disciplinary action including separation from employment or expulsion.