
Chapter: Personnel

Modification No. 010

Subject: **Equal Employment Opportunity and Non-Discrimination**

I. Policy Statement

Montgomery College is committed to providing equal employment opportunity for all employees and applicants. Equal opportunity extends to all aspects of the employment relationship, including but not limited to recruiting, hiring, placement, promotions, training, working conditions, transfer, leaves of absences, compensation, and benefits. Further, the College is committed to providing an environment in which all persons are provided the opportunity for employment, participation in academic programs, and/or other College activities free from discrimination, harassment, and sexual assault in accordance with applicable federal, state, and local laws. Discrimination will not be tolerated and the College will consider a violation of this Policy to be a significant act of misconduct that may result in disciplinary action. When made aware, the College will take immediate action to stop the discrimination, prevent its recurrence, and remedy its effects.

II. Applicability

In accordance with applicable law and the College's commitment to access, equity, and diversity, the College does not discriminate against any student, employee, or applicant for employment on the basis of age, color, citizenship status, covered veteran status, disability, gender, gender identity and expression, genetic information, national origin, marital status, race, religion, sexual orientation, or for any other reason to the extent these attributes are not covered in this Policy and covered by federal, state and county laws and regulations. The College also prohibits retaliation against employees and students who, in good faith, bring complaints regarding perceived discrimination.

III. Education

Education is a key element of this Policy. The College will provide education and information, as appropriate, for students and employees to enhance understanding and increase awareness of the College's Equal Employment Opportunity and Non-Discrimination Policy. Any mandatory education requirements will be announced and posted on the College's website. The President is authorized to provide institutional leadership and guidance for developing education programs to promote awareness about non-discrimination. Some goals to be achieved through education are: (a) ensuring that all individuals are aware of their rights; (b) notifying individuals of conduct that is proscribed; (c) informing employees, contractors, and students about the proper way to recognize issues and address complaints involving a violation of this Policy; (d) preventing issues that this Policy addresses; and (e) identifying the necessary steps for preventing its recurrence and addressing its effects.

IV. The President is authorized and directed to establish procedures and programs to implement this Policy.

Board Approval: September 21, 1987; December 18, 1989; April 15, 1991; July 15, 1991; September 21, 1999, November 18, 2002, December 13, 2010; February 25, 2013, February 23, 2015; December 12, 2016.

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Modification No. 005Subject: **Equal Employment Opportunity, and Non-Discrimination****I. Introduction**

- A. Montgomery College is an equal opportunity institution and, in accordance with applicable law, the College prohibits discrimination against any student, employee, or applicant for employment on the basis of age, color, citizenship status, current or former military status, disability, gender, gender identity and expression, genetic information, national origin, marital status, race, religion, sex, sexual orientation, and for any other reason covered by applicable federal, state and county laws and regulations. The College also prohibits retaliation against employees and students who, in good faith, bring complaints regarding perceived discrimination.
- B. The College is committed to providing an environment in which all persons are provided the opportunity for employment and/or participation in academic programs, and other College activities free from any form of harassment as prohibited by federal and state laws, including sexual misconduct. Conduct that constitutes discrimination and/or harassment violates College Policy and will not be tolerated. Violations of this Policy on the part of any College employee, or any student, or any participant in a College program or activity will result in appropriate disciplinary action, including discharge or expulsion.
- C. The College has taken steps to prevent and promptly correct all forms of discrimination. This internal complaint procedure provides a mechanism for aggrieved individuals to receive a prompt, thorough, and impartial review of issues believed to be in violation of the College's Equal Opportunity and Non-Discrimination Policy and [Equal Education Opportunity and Non-Discrimination Policy](#). Conduct pertaining to all forms of sexual misconduct; including sexual harassment, sexual assault, intimate partner violence/abuse, stalking, sexual exploitation, and sexual intimidation is covered by the procedures outlined in Policy 31001-Sexual Misconduct.
- D. When appropriate, the College expects students or employees to use internal means to resolve complaints related to 31006-Equal Employment Opportunity and Non-Discrimination and/or 41002-Equal Education Opportunity and Non-Discrimination, and to take advantage of any preventive and corrective opportunities.

II. Complaint Procedure - General

- A. Montgomery College has established informal and formal procedures to resolve equal employment opportunity and equal education opportunity complaints. The College encourages individuals to use the voluntary informal procedures set forth in Section IV of this procedure before beginning the formal procedures set forth in Section V of this Procedure. If an individual uses the informal procedures, they may request that the College stop the informal process and initiate the formal procedures.
- B. The College encourages students or employees to use the informal and formal procedures to resolve discrimination complaints. Individuals, however, have the right to file complaints with external enforcement agencies, including: Equal Employment Opportunity Commission; US Department of Labor; Office of Civil Rights of the

Department of Education; the Maryland Commission on Human Relations; and the Montgomery County Human Relations Commission.

- C. The Director of Employee Relations, Diversity, and Inclusion (ERDI) serves as the principal liaison with applicants for employment, College employees, and students on matters of equal employment opportunity and equal education opportunity.
 - D. Any student, applicant for employment, College employee, or individual present on College premises has a right to file a complaint with the Director of ERDI alleging a violation under this Policy. Complainants must file a complaint within one hundred eighty (180) calendar days after the date the alleged violation occurred.
 - E. In cases of alleged sexual misconduct as defined in the Policy 31001-Sexual Misconduct, the procedures of that Policy shall be followed.
 - F. The Office of Human Resources and Strategic Talent Management is a resource that can assist individuals in resolving disputes, concerns, and other matters in a prompt, efficient, and thorough manner. Thus, in addition to the informal and formal procedures set forth in this Procedure, the College encourages individuals to proactively bring discrimination concerns to the attention of supervisor(s) and the Director of Employee Relations, Diversity and Inclusion (ERDI). Individuals who are concerned they have witnessed, or have been subjected to prohibited discriminatory actions should discuss their concerns with their immediate supervisor, appropriate administrator, or the Director of ERDI (or designee). The College recommends that individuals immediately bring their concerns to management's attention in order to facilitate prompt attention and action. An immediate supervisor or appropriate administrator, through consultation with the Director of ERDI or designee, will attempt to resolve the matter prior to the use of the informal and/or formal procedures set forth in this Procedure.
 - G. Under the informal and formal procedures set forth below, an employee or applicant for employment filing a complaint alleging a violation of the Equal Employment Opportunity and Non-Discrimination Policy (31006) and a student or potential student filing a complaint alleging a violation of the Equal Education Opportunity and Non-Discrimination Policy (41002) must report in the complaint all known claims that have occurred prior to the date on which the complaint is filed. If, during the investigation, additional potential violations of the Equal Employment Opportunity and Non-Discrimination Policy and/or Equal Education Opportunity and Non-Discrimination Policy are discovered, the College may open a separate investigation on those new allegations. The College may reject any claim to the extent it includes allegations that the Complainant(s) knowingly did not report in an earlier complaint. However, the College may, in its sole discretion, permit consideration of such allegations if it is satisfied (i) that the employee, applicant, or student provides an adequate explanation for not reporting the allegations in the prior complaint and (ii) that the interests of all parties would best be served by considering the new allegation.
 - H. Complaints of discrimination will be investigated and addressed in a fair and impartial manner. All individuals involved in the investigation will be treated with dignity and respect. Retaliation against a complainant or individual participating in an investigation under this Procedure is prohibited.
- III. Notice to Respondent(s)

Following review and evaluation of the complaint, the Director of ERDI, or designee, shall deliver, or cause to be delivered, a copy of the complaint to each respondent(s), together with a copy of the appropriate College Policy and Procedure for which a violation has been alleged. At this time, the respondent(s) shall be informed that College Policy and applicable law prohibit retaliation for the filing of a complaint or participation in an employment discrimination investigation. A copy of the complaint shall be simultaneously delivered to the appropriate Senior Vice President(s) and the General Counsel. If the complaint involves a College employee, a copy will be sent to the Chief Human Resources Officer, the immediate supervisor of the respondent(s), and other appropriate administrators. To the extent possible, confidentiality will be maintained when delivering a copy of the complaint to each respondent as set forth above.

IV. Informal Resolution Procedure

- A. Informal resolution is an alternative to the formal resolution process and is intended to resolve a discrimination complaint through communication, problem-solving, and, where appropriate, alternative dispute resolution. When an individual voluntarily chooses to use the informal procedure by submitting the appropriate form as provided by HRSTM, the Director of ERDI should determine whether informal resolution is appropriate. When the informal procedure is used, the College will take prompt and corrective action to eliminate and redress violations of the Equal Employment Opportunity and Equal Education Opportunity policies. The College's action may be addressed to the individual(s) involved in the complaint, a broader remedy, or some combination thereof. Informal resolution procedures also include alternative dispute resolution, such as mediation. Individuals may consult with the Director of ERDI and request that an alternative dispute resolution process, such as mediation or other collaborative dialogue, be used to resolve the matter. Alternative dispute resolution will be followed only if all parties, including the College, agree.
- B. The College will not compel a Complainant to engage in the informal resolution procedure, to directly confront the respondent(s), or to participate in any particular form of alternative dispute resolution. The College may suggest informal resolution at any time after it has sufficient information about the nature and scope of the alleged conduct. Participation in informal resolution is voluntary, and a Complainant can request to end informal resolution at any time.
- C. If informal resolution results in an agreed upon solution, the complaint will be considered resolved as it pertains to the College.
- D. An individual's use of the informal procedure extends the time to complete the investigation under the formal procedures.
- E. The Director of ERDI, or designee, will maintain records of conduct referred for informal resolution. Informal resolution will typically be completed within sixty (60) days of the initial report. However, resolution time may vary depending on the complexity, the severity and extent of the discrimination, and if mediation is pursued, mediator availability.

V. Formal Resolution Procedure

- A. Filing and Contents of Complaint

A Complainant may file a formal complaint with the Director of ERDI on a form to be provided by the Office of Human Resources and Strategic Talent Management. The complaint shall contain the Complainant's name, address, telephone number, the facts of the alleged violation, the date of the alleged violation, the name or names of the respondent(s), the requested remedy and any further information the Complainant believes relevant to the matter.

B. Time for Filing Complaint

A complaint must be filed with the Director of ERDI within one hundred eighty (180) calendar days after the facts giving rise to the alleged violation.

C. Notice to Respondent(s)

Upon review and evaluation of the complaint, the Director of ERDI, or designee, shall deliver, or cause to be delivered, a copy of the complaint to each respondent(s), together with a copy of the College's Complaint Procedure and notice of College Policy and applicable law prohibiting retaliation. A copy of the complaint shall be simultaneously delivered to the appropriate Senior Vice President(s) or Vice Presidents and the General Counsel. If the complaint involves a College employee, a copy will be sent to the Chief Human Resources Officer, the immediate supervisor of the respondent(s), and other appropriate administrators. Delivery shall be effected in a manner consistent with the confidentiality of the matter.

D. Investigation of Complaint

1. Time Limitations

The Director of ERDI, or designee, shall commence an investigation of the complaint by meeting with the Complainant(s). At the discretion of the Director of ERDI, or designee, the College may engage an external investigator whenever, in the exercise of judgment, doing so will best serve the fair and equitable resolution of the complaint. The investigation will be conducted in a prompt, thorough and impartial manner. Every effort will be made to complete the investigation within sixty (60) days; however, investigations will vary depending on the complexity, the severity and extent of the discrimination, and witness availability. If the Director of ERDI, or designee, requires more than sixty (60) days to complete the investigation, the principal parties will be notified as soon as practical. The parties may receive periodic updates regarding the status of the investigation, either upon request or by the College without a request.

2. Right and Responsibility to Present Response

Each individual is expected to cooperate with the investigation by providing information requested in the format requested, including a response to each and every allegation in the complaint. During the course of the investigation the Respondent(s) shall have the opportunity to meet with the investigator to present facts and other evidence to respond to the allegations made in the complaint. The investigator will request the Complainant(s) and Respondent(s) to provide a written response to the complaint along with the other documentation within ten (10) days of receipt of the complaint or within five (5) days of meeting with the investigator, whichever is later. A reasonable extension of time may be granted

to the Respondent(s) if s/he cannot provide the response and information within such time period and requests and extension in writing two (2) days prior to any deadline.

3. Advisors, Support Persons, and Attorneys

- a. Throughout the investigation, the Complainant and Respondent(s) may choose to be assisted by an advisor. The Director of ERDI maintains a list of College community members who have undergone the appropriate training and can guide an individual through the investigatory process. The advisor may accompany the individual to any College investigative meeting but may not speak.
- b. A Complainant(s) and Respondent(s) may also choose to be assisted by an emotional support person of their choice. The support person cannot be a witness in the investigation. The support person is a silent and non-participating presence who is there solely to observe and provide moral support. This person is not to address the investigator, except to ask for a short recess if one of the parties requires some time to compose him or herself or collect his or her thoughts. The investigator has the right at all times to determine what constitutes appropriate behavior on the part of a support person and whether the person may remain present. No written materials are to be shared with support people.
- c. Absent extenuating circumstances, witnesses and others involved in an investigation are not entitled to have a support person present.
- d. The College prohibits outside attorneys, or family members acting as attorneys, from participating in proceedings under this Policy. A Complainant(s) or Respondent(s) may choose to seek the advice and assistance of an attorney at his/her own expense, but the attorney may not participate in the investigation. Similarly, the College will not recognize or enforce agreements between the parties outside of these procedures.

4. Witnesses

Only witnesses that have relevant direct or circumstantial knowledge or information to the incident under inquiry will be interviewed. Relevant witness information includes information that will prove or disprove the actual allegations in the discrimination complaint.

5. Access to Information

All members of the College community are expected to cooperate with the investigation by providing timely information in the format requested. The investigator shall have access to personnel information about employees. The investigator shall also have access to the educational records of students, in whole or in part. Personal information obtained from educational records of students shall not, however, be disclosed to third parties other than the College's General Counsel, appropriate Senior Vice President, the President, and the

appropriate administrative official(s) who might require access in order to conclude the investigation and implement a corrective action.

6. Prior Allegations Against the Respondent(s)

Prior complaints may not be used to substantiate the current complaint, but may be considered by the investigator for other purposes, such as assessing the credibility of the Respondent(s) and/or ascertaining the existence of a pattern of conduct by the Respondent(s). Substantiated prior complaints may also be considered in evaluating whether and what level of corrective action to recommend. Information regarding prior complaints will not be made available to anyone under these procedures, except as permitted or required by law.

7. Complaint Withdrawal

At any time prior to the completion of a formal investigation, Complainant(s) may request the voluntary withdrawal of the complaint. The request shall be in writing to the Director of ERDI, or designee. Upon the agreement of both the Complainant(s) and Respondent(s), prior to the completion of the formal investigation, a request may be made to use mediation to resolve the complaint. If a formal complaint has been voluntarily withdrawn by the Complainant(s) before the investigation has been completed, the Complainant may not re-file the same complaint or a new complaint making the same factual allegations as those previously made in the withdrawn complaint.

8. Conflict of Interest

The Complainant(s) or the Respondent(s) may submit a written request to the Director of ERDI, or designee, requesting that the investigator excuse him/herself from the proceedings. The request must clearly state the grounds to support a claim of bias, conflict of interest or an inability to be fair and impartial. This challenge must be presented prior to the commencement of the investigation. Failure to object prior to the commencement of the investigation will forfeit the Complainant(s) and/or Respondent(s) ability to appeal the outcome based on conflict of interest.

9. Request to Reschedule

Either party can request to have a meeting with the investigator rescheduled. Absent extenuating circumstances, requests to reschedule must be submitted to the investigator with an explanation for his or her request at least three (3) days prior to the date of the meeting.

10. Separation or Consolidation of Investigation

At the discretion of the Director of ERDI, or designee, multiple allegations or complaints may be consolidated against a Respondent(s) in one investigation, if the evidence related to each incident is relevant and probative in reaching a determination on the original complaint.

11. Interim Measures

Based on the information gathered during the investigation, the College reserves the right to take appropriate interim measures designed to provide relief to the affected person(s), reduce the likelihood of recurrence, or address immediate effects of the behavior.

12. Safeguarding of Privacy

All parties involved in an investigation are required to keep the information learned during the investigation private. No copies of documents provided are to be made or shared with any third parties. All copies of documents provided during the investigation must be returned to the College at the conclusion of the investigation and any appeals. Any breach of this duty is subject to further disciplinary action by the College.

VI. Findings of the Investigator

- A. Within sixty (60) days after receipt of the complaint, or as soon as practicable thereafter, the Director of ERDI, or designee, shall submit to the Complainant(s) and Respondent(s) a written investigative summary which will contain a summary statement of the findings, a determination regarding whether under a preponderance of the evidence standard the Respondent(s) has or have violated College Policy 31006-Equal Opportunity and Non-Discrimination or College Policy 41002-Equal Education Opportunity and Non-Discrimination. If the Director of ERDI, or designee, concludes that there has been such a violation, the Director or designee will recommend steps to be taken to rectify and prevent recurrence of any discrimination by the Respondent(s). The recommendation for corrective action should be formulated in consultation with the appropriate administrators and/or disciplinary authority including (where a respondent is an employee), the Chief Human Resources Officer. Corrective action as defined herein includes, but is not limited, to any action instituted by the College which is designed to remedy or reform any behavior, conduct, practice or activity that is deemed to be in violation of College Policy. Examples of corrective action may include, but is not limited to, training for employees and students, orientation and/or training for new students and employees, training for student athletes and coaches, counseling, reassignment, the development and/or dissemination of College Policy, and/or disciplinary action, up to and including discharge.
- B. If there are prior substantiated complaints against the Respondent(s), the Director of ERDI, or designee, shall take that into account in his/her recommendation(s) described above.
- C. A copy of the investigative summary statement shall also be sent to the appropriate unit administrator(s) of the individual found to have violated College Policy, the appropriate Senior Vice President, the campus Vice President and Provost, and the General Counsel. If the Director of ERDI finds that there has been a violation by a student, a copy of the investigative summary shall be forwarded to the appropriate dean or the appropriate campus Vice President and Provost, and other appropriate administrators. If the Director of ERDI finds that an employee has violated College Policy, a copy of the investigative summary statement shall be forwarded to the Chief Human Resources Officer, the Respondent's immediate supervisor(s), and other appropriate administrators. If the Director of ERDI, or designee, finds there has been a violation by a participant in a College program, other than an employee or student, a copy of the investigative

summary and recommended action shall be sent to the administrator responsible for the program.

VII. Procedures for Review of the Findings

- A. Subject to the provisions of Section VIII, C below, the investigative summary shall be final unless either the Complainant(s) or the Respondent(s) requests, in writing, an appeal. The grounds for appeal are limited to:
1. A procedural error or omission occurred that significantly affected the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
 2. To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding (a summary of this new evidence and its potential impact must be included).
 3. The sanctions imposed are substantially disproportionate to the severity of the violation or fall outside the range of sanctions the College has designated for purposes of this Policy.
- B. The Complainant(s) or the Respondent(s) shall have five (5) days to state in writing the procedural error and the specific reasons why the investigative findings and/or determination should be reversed or modified due to such alleged error. Appeals should be filed with the Chief Human Resources Officer who will appoint an appropriate Senior Vice President to act as the appeals review official.
- C. A designated Senior Vice President may elect to serve as the reviewing official or designate another administrator within her or his administrative area to serve as the reviewing official.
- D. Upon receipt of an appeal, the reviewing official shall notify the non-appealing party, the Director of ERDI and those individuals who received a copy of the investigative summary pursuant to Section VI, C above.
- E. The reviewing official will be limited to a review of the investigative record, the College's Equal Opportunity, Non-Discrimination and Harassment Complaint Procedure (31001CP) or Equal Education Opportunity Complaint Procedure (42001CP), and any other appropriate College Policy and the Respondent's or Complainant's written appeal. The reviewing official, may in his/her sole discretion, may ask the investigator to respond in writing to the alleged errors outlined in the appeal.
- F. Within twenty (20) days of receipt of the appeal, the reviewing official, shall issue a final written determination either upholding the finding and determination of the Director of ERDI or reversing the finding and/or determination, and providing specific reasons for such reversal. The written determination of the reviewing official shall be final and will be forwarded to the Complainant(s), Respondent(s), Director of ERDI, the Chief Human Resources Officer, the General Counsel, and other college administrators as appropriate. In cases of an appeal involving a student, a copy of the written determination of the reviewing official shall be forwarded to the appropriate Instructional Dean or to the appropriate campus Vice President and Provost. In the case of an appeal involving a staff member, a copy of the written determination of the reviewing official shall also be

forwarded to the Chief Human Resources Officer, employee's immediate supervisor, and other appropriate administrators. In the case of an appeal involving a faculty member, a copy of the written determination of the reviewing official shall be forwarded to the Chief Human Resources Officer, Senior Vice President for Academic Affairs, Instructional Dean who has supervisory authority over the faculty member's academic department, and other appropriate administrators.

- G. If the reviewing official determines there was a procedural error that substantially affected the outcome of the investigation to the material prejudice of the party or parties filing the appeal, or requests additional investigation, no disciplinary action may be carried out prior to the appeals review official expressly so directing in his/her decision.

VIII. Implementation of Corrective Action

- A. If a notice of appeal is not submitted to the Senior Vice President in accordance with Section VII above, the appropriate administrators/disciplinary authority shall act to implement corrective action within twenty (20) days or as soon as practical of receiving a copy of the investigative summary.
- B. If a notice of appeal is submitted to the Senior Vice President, the appropriate unit administrator/disciplinary authority shall act to implement corrective action within twenty (20) days or as soon as practical of receiving a copy of the Senior Vice President's determination upholding the Director of ERDI's original probable cause finding and the recommended corrective action.
- C. Any Respondent(s) whose conduct results in a finding of probable cause by the Director of ERDI and against whom 31006CP disciplinary action is initiated as a result of that finding shall be afforded all applicable processes according to College Policies and Procedures:
1. Students: [Student Code of Conduct \(42001\)](#),
 2. Employees: the College's [Disciplinary Action and Suspension Policy \(34002/32002CP\)](#), the College's [Discharge of Administrative, Associate and Support Staff Policy \(34003/34003CP\)](#), the [Personnel Grievance Process for Employees \(34101/34101CP\)](#), the grievance procedure under applicable [collective bargaining procedures](#), or any other applicable processes.
- D. If the Director of ERDI makes a final finding or the reviewing official makes a final determination that there has been a violation of the College's Policy with respect to a grade awarded to a student, the Director of ERDI or the reviewing official shall make no determination with respect to the corrective action to be taken regarding a specific grade assignment. The finding or determination shall be forwarded to the Complainant(s), Respondent(s), and the appropriate Dean, who shall select a review committee in accordance with the procedures stated in the Academic Regulations for the review of allegations of arbitrary and capricious grading. The review committee, which is established pursuant to the Academic Regulations to review allegations of arbitrary and capricious grading, shall have no authority to reverse the finding or determination of the Director of ERDI or the reviewing official, and shall confine its consideration to a determination of the appropriate corrective action with respect to the grade. The Committee shall, within twenty (20) days, or as soon as practical after appointment of the committee and its receipt of the finding or determination, forward to the Director of ERDI

and the reviewing official, Complainant(s), and Respondent(s) a written recommendation as to the appropriate corrective action with respect to the grade.

- E. Within ten (10) days of receipt of the written recommendation of that Committee, the Senior Vice President for Academic Affairs shall review the recommendation of the committee and, upon completing such review, shall issue a final written determination of the corrective action with respect to the grade she or he determines to be appropriate for such violation (which she or he shall implement), and a copy of which shall be forwarded to the Complainant(s), Respondent(s), reviewing official, and Director of ERDI.
- F. Once the disciplinary/grievance process, including any available appeal, has concluded, whatever decision is made regarding the disciplinary action constitutes the final administrative decision of the College in the matter. The Director of ERDI shall ensure that the Complainant(s) is appropriately advised of the resolution of such disciplinary action.
- G. No provision of this Policy shall be construed as a limitation on disciplinary action available under applicable policies and procedures. If an investigation is conducted under this Policy and no Policy violation is found, that fact does not prevent discipline of the respondent(s) under other applicable Policies and Procedures.

IX. Confidentiality

The College recognizes the importance of confidentiality. To the extent possible, all information received in connection with the filing, investigation, and resolution of complaints will be treated as confidential. Records will be maintained in a confidential manner to the extent permitted by law and insofar as they do not interfere with the College's legal obligation to investigate and resolve issues of discrimination. Thus, confidentiality will be maintained except as disclosure may be required to be made: (i) by law; (ii) to individual witnesses with knowledge of facts relating to the complaint; (iii) to the Director Employee Relations, Diversity and Inclusion, and his/her designated representative, when applicable; (iv) to union representatives in the event the Complainant(s) and Respondent(s) are union members, and/or; (v) on a need to know basis to counsel, insurers, auditors, appropriate Board members and executives of the College. The Complainant(s) and Respondent(s) shall, at all times pending final determination of the matter, maintain the confidentiality of the matter and shall not disclose to any person the name of the Complainant(s), any Respondent(s), or the facts asserted to give rise to the complaint. Complainants and witnesses should be informed that the confidentiality of their identities cannot be assured throughout the investigation, although a reasonable effort will be made to protect and preserve confidentiality. A Complainant(s) should be aware that s/he/they may be called as a witness in subsequent disciplinary or other related proceedings.

X. Non-Disclosure of Genetic Information

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by law.

To comply with this law, employees should not provide any genetic information when responding to a request for medical information made in connection with a request for an accommodation, including any leave of absence.

“Genetic information,” as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

XI. Maintenance of Documentation

Documentation resulting from the investigation at each level in the complaint procedure will be maintained in the Office of Employee Relations, Diversity and Inclusion, and is not considered part of an employee’s personnel file. Documentation regarding disciplinary action will be made part of the employee’s personnel file or student disciplinary file.

XI. Retaliation Prohibited

Retaliation against a person who has filed a complaint or against any individual who participated in an investigation is strictly prohibited. Any retaliatory action by any College employee or student against a Complainant or witness is prohibited and may be grounds for disciplinary action or dismissal from the College.

XII. Good Faith Reporting

Any individual found to have knowingly and intentionally filed a false allegation or provided false information may be subject to appropriate disciplinary action. A complaint made in good faith is not considered false merely because the evidence does not ultimately support the allegation of discrimination.

XIII. Time Limits

Unless otherwise stated in applicable collective bargaining agreements, the word “days” shall mean working days defined as all days during the calendar year other than Saturdays, Sundays, and days designated as holidays by Management.

The Director of ERDI in consultation with the Chief Human Resources Officer and the Senior Vice Presidents or designee(s) may exercise reasonable discretion to adjust the time limits for the investigation and/or the issuance of the investigative summary, depending upon the nature and complexity of the complaint, or when such action is deemed necessary or appropriate.

XIV. Receipt of Notification

Whenever, under these procedures, individuals must be notified in writing, a copy shall be served in person, by certified, return receipt requested mail to the address that is kept on file at the College, or via email at the individual’s request. For purposes of computing any time frames under these procedures, where service is by US mail, the date of service shall be considered to be the third day after the postmarked date of the letter. It is the responsibility of the individual to ensure that the College has their current address on file.

Administrative Approval: July 16, 1999; March 10, 2003; December 13, 2010; February 24, 2015; December 13, 2016.