

**BOARD OF REGENTS FOR HIGHER EDUCATION  
AFFIRMATIVE ACTION PLAN  
SECTION 46a-68-6  
GRIEVANCE PROCEDURE**

The following procedures have been developed to address Discrimination, Sexual Harassment and Sexual Orientation. These procedures are designed to ensure fair consideration of any complaints related to discrimination, sexual harassment or sexual orientation.

**Discrimination Policy & Procedure**

The Board of Regents for Higher Education has adopted a policy of "zero-tolerance" with respect to unlawful employee harassment. In this connection, the Board expressly prohibits any form of unlawful employee harassment based on race, color, religious creed, sex, gender identity or expression, national origin, ancestry, age, sexual orientation, physical disability, learning disability, genetic background information, intellectual disability, past or present history of mental disorder, status as a Vietnam-era or special disabled veteran or status in any group protected by state or local law (including marital status). Improper interference with the ability of Board employees to perform their expected job duties will not be tolerated.

The following procedure provides confidential counseling and is completely independent of any other grievance procedure presently in place. It is for the purpose of resolving employee allegations of discrimination at the Board of Regents for Higher Education in an expeditious and informal manner.

This procedure, or submission of a complaint to this procedure, in no way precludes the submission of a complaint of a discriminatory nature to the Connecticut Commission on Human Rights and Opportunities, the United State Equal Employment Opportunity Commission, the United States Department of Labor (Wage and Hour Division), or any other agency (state, federal or local) that enforces laws concerning discrimination in employment. Nor, does the establishment of this procedure foreclose any other legal options available to the employee.

Violation of this policy may be grounds for disciplinary action, up to and including dismissal from State Service.

**Definition/Legal Basis**

*Race, Color, Religious Creed, Sex or National Origin*

Title VII of the Civil Rights Act of 1964 (as amended) and Executive Order 11246 (as amended) prohibit discrimination in employment against any person (e.g. applicants and employees) on the basis of race, color, religious creed, sex or national origin.

*Age*

The Age Discrimination in Employment Act of 1967 (ADEA), (as amended) prohibits discrimination in employment on the basis of age against any person (e.g. applicants and employees) age forty (40) or older. Connecticut Sec. 46a-60 prohibits discrimination based on age and protects any worker eighteen (18) years of age or older.

### *Disability*

The Rehabilitation Act of 1973 defines "disabled individual" as any person who has a physical or mental impairment that substantially limits one or more of such person's major life activities, has a record of impairment, or is regarded as having such impairment. Section 7(b) of the Rehabilitation Act addresses drug and alcohol abuse, noting that the definition of "disabled individual" does not include any individual who: is "an alcoholic or a drug abuser whose current use of alcohol or drugs prevents such an individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to the property or the safety of others.

Persons with disability are defined in the Connecticut General Statutes Sec. 46a-8 as "any person who has a physical, mental, emotional, or other disability or dysfunction which constitutes a significant obstacle to such person's ability to function normally in society and includes those persons defined as developmentally disabled under Public law 94-103 and any amendments thereto." Physically disabled is defined under Connecticut General Statutes Sec. 46a-51(15) as "any individual who has any chronic physical handicap, infirmity or impairment, whether congenital or resulting from bodily injury, organic processes or changes from illness, including, but not limited to, epilepsy, deafness or hearing impairment or reliance on a wheelchair or other remedial appliance or device." Learning disability is defined in the Connecticut General Statutes Sec. 46a-51(19) as "an individual who exhibits a severe discrepancy between educational performance and measured intellectual ability and who exhibits a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in a diminished ability to listen, speak, read, write, spell or to do mathematical calculations."

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination against qualified individuals with disabilities. The ADA covers not only individuals who have disabilities, who have records of disabilities, or who are perceived as having disabilities, but also individuals related to, or associated with, persons who fit into one of these categories.

### *Status as a Vietnam-era or Special Disabled Veteran*

The Vietnam Era Veterans Readjustment Assistance Act of 1974 (VEVRAA) defines Vietnam-era veteran as an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era (between August 5, 1964, and May 7, 1975). To be an eligible veteran, a person must have served on active duty for a period of more than one hundred eighty (180) days and have been discharged or released therefrom with other than a dishonorable discharge or have been discharged or released from active duty because of a service connected disability.

VEVRAA defines a special disabled veteran as:

- c. A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Veteran's Administration for a disability rated at thirty (30) percent or more, or rated at ten (10) or twenty (20) percent in the case of a veteran who has been determined to have a serious employment handicap; or
- d. A person who was discharged or released from active duty because of a service-connected disability.

### **Resolution - Time Constraints**

The Affirmative Action Officer will resolve any alleged discrimination or unfair employment practice within ninety (90) calendar days after the receipt of a written complaint.

### **Records Retention**

All records relevant to employee grievances including counseling sessions and informal allegations which result in complaints to enforcement agencies, are maintained, regularly, reviewed and reported on by the agency Affirmative Action Officer/Designee in the Affirmative Action Plan.

### **Training/Notification**

The Board of Regents for Higher Education will obtain/provide periodic training in counseling and grievance investigations for agency managers and supervisors.

### **Procedure for Handling and Investigating Discrimination Complaints**

If you feel you have been a victim of discrimination please follow the following procedures:

1. Complainant requests a confidential meeting with the Affirmative Action Officer/Designee. The Affirmative Action Officer/Designee will advise the complainant of his or her rights in accordance with relevant laws and propose possible remedies.
2. If the complainant is unsatisfied with any of the possible remedies or if a remedy is not readily available the Complainant then has the right to file a written complaint with the assistance of the Affirmative Action Officer/Designee. The written complaint must be filed on the complaint form provided by the Employee Relations Office and include the following [please note: all grievances should be submitted within thirty (30) days of the alleged discriminatory treatment] :
  - a. Complainant's name
  - b. Work telephone number
  - c. Job title
  - d. Supervisor's name
  - e. Supervisor's Title
  - f. Complainant's home address
  - g. Complainant's home telephone number
  - h. Name of individual against whom the complaint is filed
  - i. The nature of the complaint
  - j. A description of the alleged act (s) of discrimination
  - k. The date (s) the act (s) took place
  - l. The date the complaint was filed
  - m. The complainant's signature
3. The Affirmative Action Officer/Designee will notify the accused party of the particulars of the complaint within seven (7) calendar days after receipt of the written complaint.

4. Upon the filing of a complaint, the Affirmative Action Officer/Designee will conduct an investigation of the complaint. Within thirty (30) calendar days from the filing of the complaint, the Affirmative Action Officer/Designee will provide a written report to the Complainant, the Accused, the President and/or a Designee as appropriate. If there is evidence that indicates the Complainant was discriminated against, the parties shall endeavor to resolve the matter within thirty (30) calendar days and/or an administrative action (e.g. discipline up to and including dismissal from State service) will be applied to the "harasser". If the endeavors at mediation are successful, a written agreement will be prepared for signature (by the Complainant, the Accused and the Affirmative Action Officer/Designee).
5. If there is no evidence of discrimination, the Affirmative Action Officer/Designee will advise the parties involved and dismiss the complaint.
6. If the complainant does not agree with the findings made in the investigation, he/she may appeal for review and reconsideration by the President. Any such appeal must be in writing and be filed within ten (10) calendar days from the date of the written report of the findings and must include specific information or evidence in support of the appeal. The President will advise the Complainant in writing within fourteen (14) calendar days of receipt of the appeal as to his or her choice of action on the matter.

#### **Retaliation for Discrimination Complaints**

Retaliation for having filed or participated in a complaint or investigation of discrimination is presumptive employment discrimination in violation of the law and as such will not be tolerated.

#### **Definition of Retaliation**

Disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work related matters with an employee because that employee has complained about or resisted harassment, discrimination or retaliation.

Intentionally pressuring, falsely denying, lying about or otherwise covering up or attempting to cover up conduct such as that described in any item above.

The above is not to be construed as an all-inclusive list of prohibited acts under this policy. If you feel you have been the subject of retaliation for having filed or taken part in a discriminatory complaint/investigation please contact the Affirmative Action Officer /Designee immediately.

#### **Sexual Harassment Policy & Procedure**

It is the policy of the Board of Regents of Higher Education to prohibit harassment of one employee by another or supervisor on the basis of sex. The purpose of this policy is not to regulate our employees' personal morality; rather it is to assure that no employee harasses another on the basis of sex. In this regard, sexually offensive activity will not be tolerated.

Violations of the policy may be grounds for disciplinary action, up to and including dismissal from State Service.

**Definition**

Sexual harassment is a form of sex discrimination that is prohibited under both Connecticut law and Title VII of the Federal Civil Rights Act of 1964. See C.G.S. 46a-60(a) (8) and 29 C.F.R. 1604.11.

"Sexual harassment" is defined under Connecticut law as: "any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (C) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment."

The Connecticut Courts have distinguished two general categories of sexually harassing behavior: Quid Pro Quo and Hostile Work Environment. The following are descriptions of conduct which constitute each category and are prohibited by this policy.

**Quid Pro Quo (literally "this for that")**

Quid Pro Quo sexual harassment occurs when an economic or job benefit is conditioned upon the granting of sexual favors. It may also occur when an employee is punished for failing to grant sexual favors in the workplace.

In a Quid Pro Quo case, the sexual overture or conduct is generally clear: for example, the supervisor demands that an employee go out with him or her in exchange for a promotion. Title VII is violated if the employee's response to such an overture is used as the basis for an employment decision affecting the employee.

Quid Pro Quo harassment may be based on a single incident.

**Hostile Work Environment**

Sexual harassment may also occur when there is unwanted sexual conduct that creates an intimidating, hostile or offensive work environment, or that has the effect of unreasonably interfering with an individual's work performance. It is not necessarily to show a direct and tangible job or economic loss. This type of claim can be brought against anyone in the workplace, whether it is a supervisor or a coworker.

Conduct that will be considered a violation of this policy includes, but is not limited to the following:

- a. Verbal - includes sexual innuendoes, suggestive comments, insults, jokes of a sexual nature, sexual propositions and threats.
- b. Non-verbal - includes sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling and obscene gestures.
- c. Physical - unwanted physical contact, including touching, patting, grabbing, pinching, brushing the body, massaging, coerced sexual intercourse, rape, molestation, sexual assault and battery.

- d. Any other unwelcome conduct of a sexual nature.

### **Procedure for Handling and Investigating Sexual Harassment Complaints**

If you feel you have been a victim of sexual harassment please follow the following procedures:

1. You should ask to review your personnel file and job evaluations. Obtain copies of anything concerning your work performance. Also, review your job description. Taking these steps may seem unnecessary, but they may protect you against retaliation in the future.
2. Keep a record of the incidents of sexual harassment. Write down the details of the incident: the date, time and location, the names of any witnesses and your response. Include also any notes, letters, pictures, etc. Keep the records in a safe place.
3. Confront the harasser (s) in a professional manner if possible and make your feelings about the situation known. Two (2) ways to do that are: Tell the person harassing you that you are offended and be specific about the behavior that upsets you. Make it clear that you want the situation to stop; Write a letter to the harasser describing the specific behavior you object to, your feelings about the harassment and how it has affected you. Demand that the behavior stop immediately. The letter may be delivered by certified mail (return receipt requested) or you can deliver it in person, accompanied by a witness. Keep a copy of the letter.
4. If the harassment continues even after you have confronted the harasser(s) or if the direct confrontation and letter is not an appropriate way to deal with the problem, report the alleged act to your supervisor or the Affirmative Action Officer/Designee. [Please note: You may go directly to the Affirmative Action Officer/Designee in the event your supervisor is the one harassing you or if you feel more comfortable going to the Affirmative Action Officer/Designee].
5. The supervisor will contact the Affirmative Action Officer/Designee and will also refer the victim to the Affirmative Action Officer. The Affirmative Action Officer/Designee shall receive both written and verbal complaints and may assist the complainant in preparing a statement of allegations. Anonymous complaints may also be investigated.
6. Within five (5) days of receiving a formal complaint of sexual harassment, the alleged harasser shall be called to the Employee Relations Office and will be presented with a copy of the complaint. The individual has the right to union representation or other representation at this meeting (so long as bargaining unit members have signed a waiver of union representation) and shall be given an opportunity to respond to the charges alleged in the complaint.
7. All complaints will be investigated expeditiously by the Affirmative Action Officer/Designee.
8. Discipline will be applied if a violation of this policy is found to have occurred.

When a complaint is made the Affirmative Action Officer/Designee will have the duty of immediately bringing all sexual harassment and retaliation complaints to the confidential attention of the President.

### **Retaliation for Sexual Harassment Complaints**

Retaliation for having filed or participated in a complaint or investigation of sexual harassment will not be tolerated.

**Definition of Retaliation**

Disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work related matters with an employee because that employee has complained about or resisted harassment, discrimination or retaliation.

Intentionally pressuring, falsely denying, lying about or otherwise covering up or attempting to cover up conduct such as that described in any item above.

The above is not to be construed as an all-inclusive list of prohibited acts under this policy.

Please note: Harassment on the basis of race, color, religious creed, age, sex, national origin, marital status, gender identity or expression, sexual orientation, learning disability, physical disability or blindness, present or past history or mental disability, intellectual disability, genetic information, and criminal record history or status in any group protected by state or local law and status as a Vietnam-era or special disabled veteran or status in any group protected by state or federal law is prohibited.

**Records of Complaints and Confidentiality**

All records associated with complaints will be maintained in the Employee Relations Office. Records must be forwarded to the Employee Relations Office immediately following the conclusion of the investigation of a complaint.

All complaints and resulting documents will be held in strict confidence to the extent possible. Anyone involved in the intake, investigation, discipline and outcome of a complaint will be disciplined as appropriate for failing to protect the confidentiality of all involved in the investigation and outcome of a complaint.

## **Sexual Orientation Policy & Procedure**

All employees are prohibited from discriminating against another employee or agent of the Board of Regents for Higher Education on the basis of his/her sexual orientation, in accordance with Connecticut General Statutes, Section 46a-81c.

For purposes of this policy, "sexual orientation" means having a preference for heterosexuality, homosexuality, or bisexuality; having a history of such preference; or being identified with such preference. .

The following shall be considered a discriminatory practice in violation of this policy and Connecticut General Statutes, Section 46a-81c: If an employer, except in the case of a bona fide occupational qualification or need, refuses to hire, or employ, or to bar or to discharge from employment any individual; or to discriminate against him/her in compensation or in terms, conditions, or privileges of employment because of the individual's sexual orientation. If any person, employer, employment agency or labor organization, except in the case of bona fide occupational qualification or need, advertises employment opportunities in a manner that restricts such employment so as to discriminate against individuals because of their sexual orientation.

Nothing in this policy shall be deemed or construed to mean that the Board of Regents for Higher Education authorizes or permits the use of numerical goals or quota, or other types of affirmative action programs, with respect to homosexuality or bisexuality in the administration of this policy.

### **Procedure**

Any employee who feels that he or she is the victim of discrimination based on his or her sexual orientation may file a written complaint with the Employee Relations Office.