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I. STATEMENT OF POLICY

A. It is the policy of SUNY Rockland to provide equal opportunity to all individuals through personnel, employment, and educational practices that adhere to federal, state and local human rights laws. These laws prohibit discrimination in hiring, firing, promotion, compensation and other employment practices, conditions and privileges of employment, because of age, alienage, color, creed, disability, gender/sex, marital status, national origin, prior non-job related record of conviction, race, religion, sexual orientation, or veteran status. They further require that reasonable accommodation be made for individuals with disabilities and that contractors engaging in business with SUNY Rockland meet equal employment opportunity standards.

B. Further, SUNY Rockland is committed to developing and maintaining avenues of entry and advancement for qualified individuals regardless of their age, alienage, color, creed, disability, gender/sex, marital status, national origin, prior non-job related record of conviction, race, religion, sexual orientation, or veteran status. To that end, the College will, in accordance with law, actively recruit and promote individuals in an effort to reflect the basic composition of Rockland County's general labor force. SUNY Rockland continually examines its job qualifications to eliminate any barriers to employment, advancement or merit, and seeks to maximize the development of all members of the work force through training and development.

C. The President of SUNY Rockland is responsible for an effective Equity and Compliance Program. Responsibility for coordination, implementation and administration of the College’s Equity and Compliance Policy is vested in the Director of Equity and Compliance. The Director of Equity and Compliance shall ensure compliance with all federal and state human rights laws, as well as Rockland County laws and policies pertaining to affirmative action and equal employment opportunity, whether expressed by Legislative act or Executive Order. The Director of Equity and Compliance shall also be responsible for the education and training of all College employees with respect to this policy and related subjects including, but not limited to, prejudice reduction/diversity and sexual harassment prevention.

II. POLICY OBJECTIVES

A. This policy has as its primary objective the development of programmatic approaches to the elimination of discriminatory employment practices and policies and their consequences as they affect protected classes in all phases of employment.

B. In order to attain this objective, the Director of Equity and Compliance shall monitor and evaluate the following activities on an ongoing basis:
1. **Recruitment**

A pro-active recruiting program shall include, but is not limited to:

a) expanding recruitment contacts and sources to protected class members;

b) analyzing any under-utilization of persons of protected classes in relation to their presence in the labor market for a given job category;

c) preparing projections of anticipated vacancies combined with a program designed to recruit under-utilized groups;

d) maintaining active contacts with community, civic, professional and multi-lingual organizations and institutions of higher learning;

e) ensuring job openings and promotional opportunities are posted in a conspicuous and timely fashion;

f) establishing ongoing contact with guidance and vocational personnel within the school districts to provide career opportunities, counseling and information relative to employment preparation and training;

g) composing and designing recruitment literature to reflect the diversity of the College/County population;

h) arranging for local media to broadcast public service announcements and preparing interviews or materials regarding career opportunities at the College for public dissemination; and

i) reviewing methods and techniques used in interviewing job applicants;

j) participate in the formulation of screening, search, and interview committees.

2. **Selection, Appointment, Assignment**

A proactive selection, appointment and assignment process shall include, but is not limited to:

a) increasing employment opportunities for the handicapped by adopting specific, non-competitive positions in accordance with provisions of Section 55a of the Civil Service law when applicable;

b) expanding avenues of entry to afford non-professional staff the opportunity for promotions into technical and professional positions;

c) analyzing reasons for non-selection of qualified job applicants within the protected classes;

d) reviewing job criteria and physical requirements to ensure that they are not culturally, racially or sexually biased and that job qualifications are relevant to job performance and duties; and

e) reviewing and certifying all pertinent search documentation relating to new appointments to ensure compliance with this policy.
3. **Skill Enhancement and Upward Mobility**

A proactive skill enhancement and upward mobility program shall include, but is not limited to:

a) assist in the development of training programs within each department, division, or office to increase skills, proficiency and knowledge of College employees;

b) assist in the development of a long-range program of career counseling, guidance, position redesign and the establishment of "career ladders;"

c) reviewing positions for possible classification or reclassification in order to ensure that promotional lines are adequate, that the number of "dead-end" jobs are significantly reduced, if not entirely eliminated, and that positions, particularly at the entry level, are filled by trainees in order to provide a less restrictive recruitment base; and

d) continuing to utilize, wherever feasible, promotional examinations to facilitate the upgrading of the present workforce and to facilitate and implement specific career opportunities for lower level employees who are in positions or occupational series which do not enable them to realize their full work potential.

4. **Termination, Resignation and Retirement**

The development of a program to monitor terminations, resignations, and retirements which shall include, but not be limited to, conducting exit interviews to determine any patterns of discrimination.

5. **Other Personnel and Managerial Actions**

Including but not limited to:

a) evaluating policies relating to the granting of leaves, the transfer of employees to other work sites, and the standard of job performance and conduct; and

b) reassessing the role of the supervisor and the quality and sensitivity of supervision;

c) assist in the development of a fair and equitable evaluation system.

III. **RESPONSIBILITIES**

A. **President**

The President of SUNY Rockland shall have ultimate responsibility to ensure the attainment of the objectives of the Equity and Compliance Policy and the enforcement of federal, state and local equal employment opportunity and human rights laws within the College community. These responsibilities include, but are not limited to:
1. establishing an Office of Equity and Compliance within the administration and appointing its Director, the Equity and Compliance Officer (hereinafter referred to as the “Director”);

2. overseeing the development of the Equity and Compliance Policy and related programs, with the authority to recommend policies and procedures to be adopted by the Board;

3. reviewing reports from the Director on the progress of the programs, and reporting to the Board of Trustees quarterly on the status of the office and its programs;

4. delegating the authority for the day-to-day oversight of the equal employment opportunity plans to the Director.

B. Director of Equity and Compliance

The Director reports directly to the President. The Director shall have general responsibilities for the design, implementation and administration of the College's Equity and Compliance Policy, plans and programs. These responsibilities include, but are not limited to:

1. overseeing and coordinating the implementation of the College's Equity and Compliance Policy;

2. conducting at least one meeting of supervisors per semester for general discussion of the progress made and the problems encountered in implementing the equal employment opportunity plans of the College;

3. collecting and analyzing appropriate statistical data with respect to the College/County's population;

4. disseminating information to those concerned with respect to current federal, state and local statutes or regulations affecting equal employment opportunity;

5. serving as a resource person for human rights and equal employment opportunity matters for the College community;

6. developing and monitoring the progress of SUNY Rockland’s equal employment opportunity goals or identifying problem areas and barriers to full implementation;

7. recommending solutions to problem areas and barriers to achieving equity;

8. reviewing and certifying all pertinent search and selection documentation relating to new appointments to ensure compliance with this policy, prior to the presentation of the selection to the President and/or Board;

9. organizing and/or conducting appropriate educational training programs in the field of equal employment opportunity;

10. organizing and/or conducting appropriate educational training programs for all College employees with respect to this policy and related subjects including, but not limited to, prejudice reduction/diversity training, and sexual harassment prevention;

11. ensuring equity and compliance with all federal, state and local statutes, rules and regulations, including the preparation of any required affirmative action plans;
12. investigating and resolving any complaints of violation of this policy;

13. performing such other functions to further equal employment opportunity as the President may direct, and

14. serving as the College’s ADA (Americans with Disabilities Act) Officer.

IV. PROHIBITION AGAINST DISCRIMINATION AND HARASSMENT

A. SUNY Rockland is an equal opportunity employer committed to compliance with federal, state and local laws prohibiting discrimination. The College is also committed to providing a working and educational atmosphere conducive to maintaining the dignity of each member of the campus community. Any act of discrimination or harassment, whatever the basis, undermines the integrity of campus relationships and is detrimental to a positive, productive environment.

B. Employment decisions at SUNY Rockland shall be made on the basis of merit, fitness and equality of opportunity and without unlawful discrimination on the basis of age, alienage, color, creed, disability, gender/sex, marital status, national origin, prior non-job related record of conviction, race, religion, sexual orientation or veteran status.

C. No officer, manager, supervisor, or other employee, contractor, volunteer, Board Member, or other non-employee shall engage in any act of discrimination on the basis of age, alienage, color, creed, disability, gender/sex, marital status, national origin, race, religion, sexual orientation, veteran status, or prior non-job related record of conviction.

D. In addition to providing protections on the basis of the above-protected classes, some federal, state and local laws protect persons who are discriminated against because they are perceived to be in a protected class. Discrimination or harassment based on a person’s perceived protected class is absolutely prohibited by this policy.

E. Anti-discrimination protections apply to all of the terms and conditions of employment including, but not limited to: recruitment, testing, hiring, work assignments, salary and benefits, performance evaluations, promotions, training opportunities, transfers, discipline, discharge and working conditions.

F. This policy applies to all SUNY Rockland officers, managers, supervisors and other employees and to all contractors, volunteers, Board Members or other non-employees of the College. Depending upon the extent of the exercise of control, this policy may be applied to the conduct of those who are not officers or managers, supervisors, other employees, contractors or volunteers of the College with respect to an illegal discrimination or illegal harassment of College officers, managers, supervisors, other employees, volunteers, Board Members, applicants, contractors or other non-employees in the workplace.

G. All officers, managers, supervisors, other employees, Board Members, volunteers, contractors or other non-employees will be expected to comply with this policy and take
appropriate measures to insure that discrimination or harassment does not occur. When discrimination or harassment is suspected, employees and non-employees are encouraged to use the complaint and investigation procedures set forth in this policy. Officers, managers and supervisory personnel must take appropriate and, if authorized, immediate corrective action when allegations of illegal discrimination or harassment come to their attention to assure compliance with this policy. If a manager or supervisor is not authorized to take corrective action, the matter should be referred to an individual having that authority. In addition, each manager or supervisor has a special duty to maintain the workplace free of discrimination or harassment. This duty includes discussing this policy with subordinates and other employees or non-employees and assuring them that they are not to endure insulting, degrading or exploitive discrimination or harassment in the workplace.

H. Any person found to be engaging in discriminatory conduct or practices, harassment or other inappropriate behavior (including the failure of a manager or supervisor to report allegations, act appropriately upon them, or discharge their duty to discuss this policy and discourage violation) will be subject to disciplinary action in accordance with the provisions of a negotiated labor agreement or state law as may be appropriate. Based upon the seriousness of the offense, discipline may include a written reprimand, suspension without pay, demotion, transfer, fine, termination and any other measures calculated to eliminate illegal or inappropriate behavior. In addition to implementing such disciplinary action, the College shall take such steps as may be necessary to address the impact that any unlawful discrimination has had upon the complainant.

I. Any employee, non-employee or applicant who believes that they have been discriminated against or harassed should immediately contact the Office of Equity and Compliance for consultation and/or to file a complaint. All complaints will be handled confidentially, which means that information obtained from a person who seeks assistance will not be discussed with other personnel except as necessary to investigate and resolve a complaint or other matter. Disclosure will be made only on a "need to know" basis for purposes of properly processing complaints.

V. **SEXUAL HARASSMENT**

A. **Introduction**

1. Sexual harassment is a form of discrimination based upon gender or sexual orientation which is prohibited by law. SUNY Rockland, as part of its continuing equal employment opportunity efforts and pursuant to guidelines on sex discrimination issued by the Equal Employment Opportunity Commission, fully supports federal and state laws which protect and safeguard the rights and opportunities of all people to seek, obtain and hold employment without subjugation to sexual harassment or discrimination of any kind in the workplace. It is the policy of SUNY Rockland to provide an environment free of sexual harassment.
2. SUNY Rockland expects that all of its employees as well as its students, volunteers, contractors and other non-employees will treat each other with courtesy, dignity and respect. Just as we do not tolerate violations of other laws in our workplace, we do not tolerate violations of the laws prohibiting sexual harassment. No officer, administrator, supervisor or other employee, volunteer, contractor or other non-employee shall engage in any act of sexual harassment.

3. Ignoring sexual harassment is tantamount to toleration and will not be condoned at the College. Sexual harassment is considered a form of employee misconduct and sanctions are consistently enforced against employees who engage in this discriminatory behavior, and against managerial and supervisory personnel who knowingly allow such discrimination to continue.

B. Definition of Sexual Harassment

1. Unwelcomed sexual advances; requests for sexual favors; sexual demands or other verbal, physical, or visual conduct of a sexual nature will constitute sexual harassment when:

   a) submission to the conduct is either an explicit or implicit term or condition of employment or academic standing;
   b) subjection to or rejection of the conduct is used as a basis for an employment or academic decision affecting the person rejecting or submitting to the conduct;
   c) the conduct has the purpose or effect of unreasonably interfering with an affected person's work or academic performance or creating an intimidating, hostile or offensive work or classroom environment;
   d) in third party situations, one individual is offended by the sexual interaction, conduct or communications between others.

2. Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. Sexual harassment refers to conduct that is not welcomed, that is personally offensive, that fails to respect the rights of others, that lowers morale, and that, therefore interferes with an individual's work performance and effectiveness or that creates an intimidating, hostile or offensive working environment.

3. Sexual harassment may take different forms. One specific form is the demand for sexual favors. Other specific forms of behavior that SUNY Rockland considers to be sexual harassment include, but are not limited to, the following:

   a) **Verbal Harassment.** Abusive verbal language related to a person's sex including sexual innuendoes; slurs; profanity; suggestive, derogatory, lewd, demeaning or insulting comments or sounds; whistling; jokes of a sexual nature; sexual propositions; or threats. Included would be any sexual advance that is unwelcome or any demand for sexual favors;
b) **Non-verbal Harassment.** Abusive written language; writings or documents showing or displaying pornographic or sexually suggestive or explicit objects or pictures; graphic commentaries; leering or obscene gestures. Also included are demeaning, insulting, intimidating or sexually suggestive written, recorded or electronically transmitted messages; and physical violations (without touching) of an individual's personal space;

c) **Physical Harassment.** Any physical contact which is not welcome including sexual flirtations, touching, petting, pinching, brushing up against a person's body, coerced sexual intercourse and assault.

4. Sexual harassment can occur between individuals of different sexes or of the same sex. It may be overt or subtle. Some behavior which is appropriate in a social setting may not be appropriate in the workplace or classroom. But whatever form it takes - verbal, non-verbal, or physical - sexual harassment can be insulting and demeaning to the recipient in the workplace or classroom.

**C. Absolute Prohibition**

1. Sexual harassment by any officer, administrator, supervisor or other employee, volunteer, Board Member, contractor, student or other non-employee will not be tolerated. All employees and non-employees will be expected to comply with this policy and to take appropriate means so that such conduct does not occur. In addition each supervisor has a special duty to maintain the workplace free of sexual harassment. This duty includes discussing this policy with subordinates and other employees and non-employees and assuring them that they are not to endure insulting, degrading or exploitive sexual treatment.

2. Upon being brought to the attention of the Office of Equity and Compliance, violations of this policy will be addressed with appropriate disciplinary action in accordance with the provisions of a negotiated labor agreement or state law as may be appropriate. Based upon the seriousness of the offense, disciplinary action may include a written reprimand, suspension without pay, demotion, transfer, fine, termination and any other measures calculated to eliminate the illegal or inappropriate behavior.

**VI. DISABILITIES**

A. Discrimination or harassment against a person based upon that person's actual or perceived disability, record of disability, or that person's relationship with a person with a disability is prohibited by federal, state, and local laws and will not be tolerated by SUNY Rockland. Disabilities are physical, medical, mental or psychological impairments of body systems which limit one or more major life activities of a person. A record of such impairment includes, for example, a history of cancer which is currently in remission. A relationship with a person having a disability includes not only having a family member with a disability, but also having a cooperative or supportive relationship at work (such as assisting a colleague with a disability).
B. In addition to taking aggressive actions against those who discriminate or harass persons with disabilities, SUNY Rockland will take appropriate action to encourage employment of, and promotional opportunities for, qualified applicants and employees with disabilities.

C. Anyone believing s/he has been discriminated against or harassed on the basis of disability should contact the Office of Equity and Compliance for a consultation. SUNY Rockland will make reasonable accommodations for qualified employees and applicants with disabilities, unless providing such accommodations would create undue hardship for the department. Whether an accommodation is reasonable generally depends upon the circumstances of each situation, including consideration of the employee’s ability to perform essential job functions. Some examples of accommodations which have been found reasonable for certain employers, under certain circumstances include: job restructuring, making facilities physically accessible to and usable by persons with disabilities; modifying work schedules; providing or modifying equipment or devices; and providing auxiliary aides and services.

VII. ANTI-RETAILIATION

A. It is unlawful to retaliate or threaten to retaliate against or harass any person for filing a discrimination, harassment or retaliation complaint; seeking a reasonable accommodation for a disability or for a religious observance; or for cooperating in the investigation of a discrimination, harassment or retaliation complaint. SUNY Rockland will not tolerate any such retaliation or threatened retaliation. Any person who believes s/he is being retaliated against, or who has received a retaliation threat for having made a complaint, or for requesting an accommodation based upon disability or religious observance, or for cooperating in an investigation is urged to file a retaliation complaint with the Office of Equity and Compliance. Any employee, contractor, or volunteer who engages in such retaliation or threatens retaliation will be subject to formal discipline in accordance with the provisions of a negotiated labor agreement or state law as may be appropriate.

B. SUNY Rockland views retaliation or the threat of retaliation as a serious offense which, if unaddressed, threatens the College's commitment to keep the workplace free of all other forms of discrimination and harassment. Accordingly, the College will seek demotion, resignation, or termination as may be appropriate against any employee or non-employee including but not limited to Board Members, volunteers or contract agents against whom a charge of retaliation, or threatened retaliation is established.

VIII. COMPLAINT AND INVESTIGATION PROCESS

A. When to File a Complaint

1. An employee, non-employee or applicant for employment should consult with the Office of Equity and Compliance, if s/he believes that s/he is being or has been discriminated against, sexually harassed, retaliated against, or otherwise harassed by an officer, manager, supervisor or other employee, or by a volunteer, independent contractor or other non-employee of the College because of actual or perceived age, alienage or citizenship status, color, creed, disability, gender/sex,
marital status, national origin, prior non-job related record of conviction, race, religion, sexual orientation or veterans status. The Office of Equity and Compliance will assist the person to determine whether the issue s/he raised is appropriate for resolution through the complaint process. Employees, non-employees or applicants will not be retaliated against for consulting with the Office of Equity and Compliance about a suspicion of discrimination, harassment or retaliation or for filing a complaint or for cooperating with an investigation.

2. Federal, state and county laws prohibit the following types of discrimination based on your actual or perceived membership in a protected group:

   a) Discriminatory treatment of employees or applicants in hiring, testing, work assignments, working conditions, salary and benefits, evaluation, promotions, training, transfers, discipline, termination, and any other term and condition of employment.

   b) Policies that have a disproportionate impact on group protected by law, unless they are justified by business necessity;

   c) Failure to make a reasonable accommodation for an employee with a disability, or for an employee's religious observance; or

   d) Discriminatory harassment, intimidation, ridicule or insults.

3. Officers, administrators and supervisors who witness prohibited acts or who become aware of allegations of discrimination, harassment or retaliation must immediately report said acts or allegations to the Office of Equity and Compliance. Supervisors must not investigate such allegations on their own and, if requested, must facilitate and cooperate with any Office of Equity and Compliance investigation which may be initiated.

B. Initial Meeting with the Office of Equity and Compliance.

1. Any person who wishes to talk about a question or problem related to the College's Equity and Compliance Policy or to file a complaint of discrimination, harassment or retaliation should contact the Equity and Compliance Office. An employee has the right to meet privately with an Equity and Compliance Office representative during office hours, however the employee should obtain approval from his/her supervisor before leaving his/her work assignment. An employee need not disclose the details or the purpose for the meeting. Reasonable requests to meet with an Equity and Compliance Office representative during work hours cannot be denied by supervisors. Supervisors should allow employees to meet with an Equity and Compliance Office representative at the earliest practicable time consistent with the operational needs of their units. At the employee's request, arrangements may also be made to hold the meeting before or after office hours, or during the employee's lunch period.
2. At the initial meeting, the Equity and Compliance Office representative will review the College's equal employment opportunity policy, provide the employee or applicant with a copy of the formalized complaint procedure, discuss the complaint and investigation process, and advise the employee or applicant of their respective rights under this policy. Allegations will then be discussed and determinations will be made as to whether allegations set forth any human rights violations. Non-human rights matters will be referred to other internal agencies such as the respective supervisor, the Human Resources Office, Union (the appropriate bargaining unit), or outside agencies.

3. Informing a representative of the College, such as an official, administrator, supervisor or Equity and Compliance Office representative of wrong-doing or potentially illegal conduct makes the College responsible for taking corrective action. Accordingly, attempts will be made to obtain any human rights complaint in writing. However, it may be necessary for the Equity and Compliance Office representative to investigate the alleged discriminatory, harassing or retaliatory behavior even if the employee, non-employee or applicant either wishes not to file a complaint or refuses to put the complaint in writing.

C. Representation

1. An employee, non-employee or applicant may bring a representative of his/her choice to attend only that part of the initial meeting where the Equity and Compliance Office representative reviews policy, procedure and rights. Any representative will be asked to leave the meeting room before any substantive allegations of discrimination, harassment or retaliation are discussed. An employee or applicant must notify the Equity and Compliance Office in advance if s/he wishes to bring a representative with him/her.

2. If the employee, non-employee or applicant files a complaint, the Equity and Compliance Office representative will meet or speak with s/he again throughout the process to keep s/he informed of the progress of the investigation.

3. No complainant or witness shall have any right to representation throughout the investigation process unless that person is the probable subject of a formal disciplinary action, and is given the right of representation pursuant to a collective bargaining agreement or applicable state law (for example, Civil Service Law § 75). If such event occurs, the employee and the employee's Union will be given written notice of any meeting by the Employee Rights representative and shall be afforded such rights to representation as are consistent with the provisions of a negotiated labor agreement or state law as may be appropriate. This Policy does not create any right of representation not otherwise afforded by a collective bargaining agreement or state statute.
D. Confidentiality

All human rights matters will be handled by the Director of Equity and Compliance in consultation with the College’s legal counsel where appropriate. The Director of Equity and Compliance will treat complaints and other information provided by employees, non-employees or applicants confidentially, which means that information obtained from a person who seeks assistance will not be discussed with other personnel except as necessary to investigate and resolve a complaint or other matter. Information will only be discussed with others on a "need to know" basis for purposes of properly processing complaints. This means that information obtained from a person who seeks the assistance of the Equity and Compliance Office or who talks to an Equity and Compliance Office representative in the course of an investigation will not be discussed with other personnel except as necessary to investigate or resolve a complaint or other matter. The purpose of this provision is to protect the confidentiality of the employee, non-employee or applicant who files the complaint; to encourage the reporting of any incidents of discrimination, harassment or retaliation; and to protect the reputation of an individual wrongfully charged with discrimination, harassment or retaliation.

E. Complaint Procedure

1. A person may file a formal written complaint of discrimination, harassment or retaliation at any time with the Office of Equity and Compliance. A copy of the complaint form is attached. Every effort will be made to accommodate people with special needs.

2. The Director of Equity and Compliance (hereinafter referred to as the "Director") may also determine that another form of communication, such as a telephone call or letter should be handled as a complaint. In such event, or when a person who has a disability which precludes his/her completion of the complaint form seeks to file a complaint, the Director shall complete a complaint form and provide any additional accommodations or assistance as may be necessary. A complaint form shall also be completed by the Director when s/he initiates an investigation on his/her own initiative.

3. All complaints investigations shall be completed within 30 days, unless otherwise authorized by the President.

4. SUNY Rockland guarantees that all investigations shall be full, fair and impartial.

5. An investigation will normally include conferring with the parties involved and any named or apparent witnesses. No person interviewed in the course of an investigation shall have a right to representation unless the person is the probable subject of a formal disciplinary action. A written notice of meeting informing the
recipient of any right to representation will be given in such cases. [See Paragraph VIII. C. 3 hereinabove (witnesses) or Paragraph VIII. F.4 herein below (Respondents)].

6. The particular facts of the allegation will be examined individually with a review of the nature of the behavior and the context in which the incident or incidents occurred.

7. A person named as the respondent in the complaint shall receive notice of the complaint and shall have the opportunity to respond to it in writing. Respondents will be afforded a reasonable opportunity to offer and present any information and witnesses relevant to the complaint.

8. A person who participates in this procedure may do so without fear of retaliation. All employees, non-employees (including but not limited to board members, volunteers, and contract agents) or applicants shall be protected from actual or threatened coercion, harassment, intimidation, retaliation, interference or discrimination for filing a complaint or assisting in an investigation. Any such actual or threatened retaliation by employees will result in formal disciplinary action which may result in termination of employment. (See Article VII hereinabove.) Any such actual or threatened retaliation by a non-employee or applicant, will result in termination of their relationship with the College.

9. If the investigation finds that the complaint is valid, the Director will recommend to the President that actions such as training, counseling, remediation, disciplinary and/or other actions be taken immediately to stop the discrimination, harassment or retaliation; to address the impact that the unlawful conduct has had upon the complainant; and to prevent recurrence of the conduct.

10. The Director should endeavor to report the findings and recommendations of the investigation to the President within 30 working days of the receipt of a formal complaint. The complainant and the respondent will be notified in writing of the outcome of the investigation and of any action taken.

11. At any point in this process, with the consent of the complainant, an attempt may be made at resolving the complaint on an informal basis. If the parties agree to a resolution of the situation and any action needed to resolve the matter has received the necessary approvals, the Director shall prepare a written Notice of Resolution confirming the agreement. The Notice of Resolution shall be signed by all parties and copies given to them.

12. SUNY Rockland recognizes that false accusations of discrimination, harassment or retaliation can have serious adverse affects on innocent individuals. We trust that all employees of SUNY Rockland will continue to act responsibly in maintaining a pleasant working environment free of

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discrimination. False accusations will be considered grounds for disciplinary action.

13. Nothing in this policy should be construed to limit an individual's existing right to file a complaint with the New York State Division of Human Rights or the U.S. Equal Employment Opportunity Commission or to take any legal action which he or she may deem advisable.

F. **Investigation Procedure**

1. An investigation will be conducted by the Director of Equity and Compliance (hereinafter referred to as the "Director") or by a representative acting under the supervision of the Director. An investigation shall be initiated within 3 days of receiving a complaint. The party filing the complaint shall be referred to as the "complainant". The accused party shall be referred to as the "respondent".

2. Upon receipt of a complaint, the Director shall inform the President of the alleged violation.

3. While investigating the complaint, depending upon the seriousness of the allegations and other circumstances, (such as threats to the safety and security of the complainant, respondent and/or other employees or clients of the College) the respondent may be placed on administrative leave (suspension with pay) at the discretion of the Board of Trustees.

4. The Director shall meet with the respondent to inform him/her of the allegations and to request identification of any witnesses or other pertinent information the respondent would like to be considered in the course of the investigation. Because formal disciplinary action may be taken against the respondent as a result of the investigation, the Director shall give respondent written notice of the meeting and afford the respondent and the respondent's union such rights to representation as are consistent with the provisions of a negotiated labor agreement or state law as may be appropriate.

5. The allegations shall be investigated based upon information obtained from the complainant, respondent, department and any other source. Reasonable cause to support the allegations may or may not be found.

6. The nature and extent of the investigation depends upon the circumstances of the case but may include but not be limited to:

   a) Personnel records or other documentary review;
   b) Interview of all witnesses and obtaining of written statement from same (may require the order of a supervisor where the witness is reluctant);
   c) Administrative review (policies, processes, etc.); and
d) Investigation of other violations which may be discovered in the course of investigating the original one.

7. If no probable cause is found to support the allegations set forth in the complaint, the President, complainant and respondent shall be informed in writing. Educational and/or remedial action may still be recommended depending upon the circumstances of the case. The Board shall decide what, if any, action is taken.

8. If probable cause is found to support the allegations set forth in the complaint, the complainant and respondent shall be advised in writing by the Director of Equity and Compliance. The respondent, consistent with the provisions of a negotiated labor agreement or state law as may be appropriate, may be formally questioned regarding the matter. Any follow-up investigation based upon the questioning of the respondent shall then be conducted. The Director shall then report findings and recommendations in writing to the president who shall decide what, if any, action is to be taken. Recommendations are based upon the circumstances of the case and may include but not be limited to:

   a) Conciliation;
   b) Reasonable accommodation;
   c) Conflict resolution;
   d) Proactive educational steps;
   e) Administrative policy changes;
   f) Informal or formal disciplinary action;
   g) Precautions against retaliation;
   h) Precautions against recurrence;
   i) Redress for the impact of the unlawful conduct upon the complainant;

9. A person found to have committed an act of discrimination, harassment or retaliation will be subject to disciplinary action in accordance with the provisions of a negotiated labor agreement or state law, as may be appropriate.

10. The Director shall inform the President or his designee of the progress of the investigation.

G. **Withdrawing Complaints**

A complaint of discrimination may be withdrawn at any time in writing by the person who filed the complaint. The Director of Equity and Compliance may, in such circumstance, find it appropriate to end the investigation when the complaint has been withdrawn. However, prior to making the determination to end the investigation, the Director with the assistance of the College’s legal counsel and in accordance with Federal and State law, must assess whether information has been found which requires the College to take corrective action to prevent or
eliminate an illegal or inappropriate situation. If there is such information, the Director will continue the investigation until she/he is prepared to recommend whether or not the College should take corrective action.

IX. REASONABLE ACCOMMODATION FOR RELIGIOUS OBSERVANCE

Personal Leave Requests for religious observance shall be granted for the days and hours requested unless doing so would create an obstruction to the proper operation of educational or administrative functions. This personal leave may be drawn only upon written request approved in advance by the appropriate supervisor.

X. REASONABLE ACCOMMODATION FOR DISABILITY

A. Introduction

1. Employers (officers, administrators, supervisors, employees) and non-employees (contractors or volunteers) cannot discriminate against people with disabilities in regard to any employment practices or terms, conditions, and privileges of employment. This prohibition covers all aspects of the employment process including, but not limited to: application, testing, hiring, assignments, evaluation, disciplinary actions, training, promotion, medical examinations, layoff/recall, termination, compensation, leave or benefits.

2. SUNY Rockland will make reasonable accommodations to qualified applicants and employees with disabilities to enable them to perform the essential functions of their jobs and to enjoy the equal benefits and privileges of employment, unless providing such accommodation would impose an undue hardship. The requirement to provide reasonable accommodation applies to disabilities that are known, or should have been known, to the employer. The reasonable accommodation process, including a description of key terms, is set forth below and should be followed by applicants and employees requesting reasonable accommodations.

B. Key Terms

1. A qualified applicant or employee is an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of a position and who, with reasonable accommodation (if needed), or without accommodation (if none is needed), can perform the essential functions of that position.

2. A disability is (a) a physical, medical, mental or psychological impairment of a body system that substantially limits a major life activity, or (b) a history or record of such an impairment, or (c) being regarded as having such an impairment.
3. **Essential functions** are duties that are fundamental to a position including, among others, those for which the position exists, those that only a limited number of employees are available to perform, or those that cannot be delegated. Evidence of what constitutes an essential function may include, but is not limited to: the employer's judgment; written job descriptions, if any; the amount and/or proportion of time spent performing the function; the consequences of not requiring a function; the terms of a collective bargaining agreement; the work experience of people who have performed the job in the past; the work experience of incumbents; the nature of the work operation and its organizational structure.

4. **Undue hardship** is an action that requires significant difficulty or expense in relation to the size of the employer, the resources available, and the nature of the operation. More specifically, undue hardship is an action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of an employer's business.

5. **Reasonable accommodations** are modifications or adjustments to the application process, work environment, or to the manner of circumstances under which an essential job function is customarily performed, that promote equal employment opportunity for an individual with a disability. Reasonable accommodation enables a qualified applicant or employee with a disability to be considered for a position or to perform its essential functions, or to enjoy benefits and privileges of employment that are equal to those enjoyed by similarly situated employees without disabilities. Accommodations are not reasonable if they impose an undue hardship on the employer.

C. **Effective Communication and Other Assistance**

The Director of Equity and Compliance shall be responsible for ensuring effective communication between applicants or employees and staff at every stage of the reasonable accommodation process. Effective communication may require arranging for sign language interpreters, assistive listening equipment, alternative formats for people with visual impairments, or other approaches. The Director of Equity and Compliance shall also be responsible for working with the Office of Human Resources to provide such other reasonable assistance as is requested by applicants, employees and supervisors throughout the reasonable accommodation and appeal processes.

D. **Confidentiality**

All personnel must respect employee confidentiality. All documentation and information concerning the medical condition or history of an employee requesting an accommodation must be collected on forms separate from other personnel-related forms and must be maintained by each department in separate medical files. The information shall be treated as confidential medical records, except to the extent that:
1. Supervisors and managers may be informed about necessary restrictions on the work or duties of an employee and necessary accommodations;

2. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or if any specific procedures are needed in case of fire or other evaluations;

3. Government officials investigating compliance with the ADA and other Federal and State Laws prohibiting discrimination on the basis of disability or handicap should be provided relevant information on request;

4. Relevant information may be provided to State Workers' Compensation Offices or "second injury" funds, in accordance with State Workers' Compensation Laws;

5. Relevant information may be provided to insurance companies where the company requires a medical examination to provide health or life insurance for employees; and

6. Other federal laws and regulations also may require disclosure of relevant medical information.

E. The Reasonable Accommodation Process Step-by-Step

1. Overview

   a) The reasonable accommodation process should be flexible and interactive, involving both the employer and the applicant or employee requesting reasonable accommodation. The process generally involves four steps. The Director of Equity and Compliance must ensure that the application, interviewing and testing procedures are accessible by reasonably accommodating applicants with disabilities. Although the interviewer must not inquire whether an individual has a disability, s/he may inquire whether an accommodation is needed, particularly where a disability is apparent or suspected.

   b) Although the process is described in terms of "steps," it should always be interactive and flexible. It is characterized by close coordination and cooperation between an applicant or employee, the respective supervisor, and the Office of Equity and Compliance with the common goal of moving the process forward as expeditiously as possible.

   c) The Rockland County Office for People with Disabilities provides information to people with disabilities and advocates for them in order to ensure that they are afforded equal rights under the law. The Office for People with Disabilities is available to help any employee or applicant with a request for an accommodation and/or to advocate for them at any stage in the accommodation process. Said office can also advocate for them in the greater community.
d) The Office of Equity and Compliance has responsibility for the implementation and administration of the College’s Equity and Compliance Policy, plan and programs. With respect to the accommodation process, as with the implementation of all other human rights laws, said office ensures equity and compliance with all Federal and State statutes and regulations as well as the uniform application of the accommodation process. The Office is also responsible for the investigation and resolution of any complaints of violation.

2. Procedure

a) Step 1: Applicant or Employee Requests Reasonable Accommodation; Initial Consultation.

(i) The employee or job candidate should complete a Reasonable Accommodation Request form (attached), and submit it to the Director of Equity and Compliance. (The form should be made available to applicants at the first possible opportunity in the application process.) Upon receiving the request, the Director shall acknowledge it by signing and dating the form in the space provided. One copy is to be returned to the applicant or employee, and the original kept in the Equity and Compliance Office. A second copy is to be filed with the Office of Human Resources. An additional copy shall be forwarded to the Rockland County Office for People with Disabilities. The submission by an applicant or employee of a request for reasonable accommodation shall not preclude the submission of subsequent requests.

(ii) Generally, it is the responsibility of the individual with a disability to inform the College of the need for an accommodation. The College must reasonably accommodate disabilities that are known or that should have been known to it.

(iii) Where the need for a requested accommodation is not apparent, the Director may ask an applicant or employee to provide documentation in support of the request. In limited circumstances, medical examinations or more detailed medical documentation may be required to determine whether an employee can perform the essential functions of the position and what accommodations may be appropriate. However, because the circumstances under which such examinations or documentation may be required in the context of a reasonable accommodation request are narrow and fact specific, the Director must consult with the College’s legal counsel before requesting them. After review and consultation with the Director of Human Resources, and/or with the College’s legal counsel, the Director should either (1) provide or implement the request and document the accommodation or (2) proceed to step 2 of this procedure.
b) Step 2: **Analysis of Job to Determine its Purpose and Essential Functions.**

(i) Upon receipt of a request for reasonable accommodation, the Director of Human Resources, in consultation with the Office of Equity and Compliance, and the College’s legal counsel, should examine the position to determine its purpose and its essential functions. Identifying which job functions are essential is necessary to determine whether an employee with a disability is "qualified" for a position. With respect to applicants for employment, the Office of Human Resources must make the application, interview and testing process accessible, unless doing so would create an undue hardship.

(ii) Essential functions are the fundamental job duties of a position, excluding marginal functions. A job function can be deemed an essential function for a variety of reasons including, but not limited to, whether (1) the position exists to perform the function; (2) a limited number of employees are available to whom the function can be assigned; and/or (3) whether the function is so highly specialized that it must be held by an employee selected for the ability to perform that function. Evidence of what constitutes the essential functions of a position includes the following: the employer's judgment; written job descriptions, if any; the amount and proportion of time spent performing a function; the consequences of not requiring the employee to perform a function; the terms of a collective bargaining agreement; work experience of prior employees in the same position; work experience of current employees in the same position; and other relevant evidence.

The determination of the essential function(s) of the job inquiry is to ensure equity in the accommodation process.

c) Step 3: **Consult with the Employee**

(i) Using a collaborative, open and flexible approach, the Director of Equity and Compliance, in conjunction with the Office of Human Resources and the employee or prospective employee (where a conditional offer of employment has been extended) should consider how any job-related limitations can be overcome, discuss possible reasonable accommodations and assess the effectiveness of each. The College must consider an applicant's or employee's preferences, along with what is reasonable under the circumstances of the work environment, in selecting accommodations. The College is not required to provide an accommodation that imposes undue hardship. The same type of open and collaborative approach also should be undertaken in identifying reasonable accommodations for the application process.
After evaluating the position to determine its essential functions, the Director of Equity and Compliance, in conjunction with the Human Resources Office, should consult with the applicant or employee requesting the accommodation to assess the limitations that the disability imposes on the performance of each essential function. If reasonable accommodation is requested for the application process itself, the Director of Equity and Compliance should consult with the applicant to determine how the process may reasonably be made accessible to the individual with a disability.

**d) What Accommodations are Reasonable?**

(i) Accommodations that are reasonable may include, but are not limited to, those listed below. The reasonableness of an accommodation will depend upon the circumstances of each case.

a. making facilities readily accessible to and usable by people with disabilities (e.g., providing ramps, restroom grab bars, signage);

b. job restructuring (e.g., reallocating or redistributing non-essential typing, telephone or other clerical assignments among employees, assignment of non-essential tasks to others, eliminating non-essential tasks);

c. modifying work schedules (e.g., permitting alternative starting and ending times);

d. providing or modifying equipment, devices or materials (e.g., raising a desk on boards for an employee who uses a wheelchair, providing flashing lights and volume controls on intercoms and telephones, installing text telephones [TTYs], providing large-print computer display programs, or materials in alternative formats, including Braille, audio tape or enlarged print);

e. providing qualified readers, interpreters, or other support services during application, interview, testing processes, and during training and other employment and employment-related activities;

(ii) The College is not required to provide personal items to employees that are needed both on and off the job. Such items include hearing aids, prosthetic limbs, wheelchairs, or eyeglasses. However, such items may constitute reasonable accommodation where they are specifically designed to meet job-related rather than personal needs. For example, eyeglasses designed to enable an employee to view a computer monitor, but which are not otherwise needed by the
employee outside the office, may constitute a reasonable accommodation.

e) Step 4: **Select and Implement an Appropriate Reasonable Accommodation.**

(i) Within 60 working days of an employee's submitting a request for reasonable accommodation: (1) the Director of Equity and Compliance shall have made a recommendation to the department, and (2) shall have either granted or denied the request in writing in the space designated for that purpose on the Request for Reasonable Accommodation form. Where an accommodation will be provided, the supervisor shall have provided or begun to implement the accommodation. Where the provision or implementation of a reasonable accommodation will take longer than 60 working days, the steps taken to order, secure or carry out the accommodation shall be documented and discussed with the employee or applicant. In all instances, however, the supervisor and/or Director of Equity and Compliance shall act as expeditiously as possible to provide reasonable accommodations. Employees or applicants may request the assistance of the Office of People with Disabilities in expediting the process.

(ii) The Director of Human Resources and the Office of Equity and Compliance shall monitor implementation of reasonable accommodations to be provided by the College.

F. **Appeal to the President**

1. An applicant or employee may appeal to the President any action or failure to act pursuant to this procedure by which the applicant or employee believes s/he has been "wronged" or aggrieved. Within 15 business days of receipt of the appeal, the President shall:

   a) obtain and review all documentation relating to the request for reasonable accommodation;
   b) meet with the supervisor and the applicant or employee;
   c) consult with legal counsel, the Office of Human Resources and/or the Office of Equity and Compliance; and
   d) review the essential job functions, job-related limitations involving the applicant's or employee's disability, and potential accommodations.

2. Within 30 working days of receipt of the appeal, the President shall issue a written determination on the request for reasonable accommodation, specifying what accommodation shall be provided, if any, and directing the department to implement such accommodation promptly. The Director of Human Resources and the Office of Equity and Compliance shall monitor implementation of any reasonable accommodation provided by the College.
G. Discrimination Complaints

This reasonable accommodation procedure is intended to ensure equal employment opportunities for employees with disabilities, but shall not impede the right of any employee or applicant to file a complaint with the College’s Office of Equity and Compliance, the Equal Employment Opportunity Commission, the New York State Division of Human Rights or any other federal, state or local agency having jurisdiction over such matters, or in any court of competent jurisdiction.

H. For Further Guidance

Throughout the reasonable accommodation process, employees and others may seek guidance by consulting the Office of Equity and Compliance at (845) 574-4758, the Office of Human Resources (845) 574-4720, or the Rockland County Office for People with Disabilities at (845) 364-2758.

XI. Implementaion of Policy

A. General responsibility for the enforcement and implementation of this Equity and Compliance Policy lies with the President of SUNY Rockland. The President has assigned to the Office of Equity and Compliance the direct responsibility for compliance with, and administration of, SUNY Rockland's Equity and Compliance Policy. Coordinating with the Director of Equity and Compliance, the Director of Human Resources and all supervisors will be responsible for applying the policy on a day-to-day basis.

B. The College shall disseminate the policy as follows:

1. Distribute and present to all current and prospective employees the Equity and Compliance Policy;

2. Explain the content of the policy and the supervisor's responsibility, as appropriate at staff meetings;

3. Each recipient of the policy shall be required to sign a form acknowledging that the policy has been received by and discussed with him/her;

4. Supervisors shall be required annually to attend a training seminar designed to review their role in preventing and avoiding any illegal discrimination/harassment/retribution.

5. Discuss the policy and employee orientation at supervisory training programs;

6. Publicize the policy in appropriate college reports and other campus media as appropriate on a yearly basis;
7. Post the policy on campus bulletin boards and on the College's web site and elsewhere as appropriate.

XII. EVALUATION AND REVIEW MECHANISM

A. **Director of Equity and Compliance**

Primary responsibility for the evaluation and review of the Equity and Compliance Policy lies with the Director of Equity and Compliance.

B. **Annual Reports**

The Director will submit reports to the President outlining the progress of and any problems with this policy. In addition there will be an annual report to the President which will include an assessment of the progress made towards the goals of this policy.

XIII. **FORMS**

A. Acknowledgment of receipt of copy of College's Equity and Compliance Policy and receipt of related training. [View or Download Form A]

B. Complaint of discrimination, harassment or retaliation. [View or Download Form B]

C. Notice of withdrawal of a complaint of discrimination, harassment or retaliation. [View or Download Form C]

D. Notice of resolution of a complaint of discrimination. [View or Download Form D]

E. Request for reasonable accommodation. [View or Download Form E]
APPENDIX

EXTERNAL ENFORCEMENT AGENCIES

Complainant is not required to pursue the SUNY Rockland internal procedures before filing a complaint with a State or Federal Agency. In addition, if the Complainant chooses to pursue the College's internal procedure, the Complainant is free to file a complaint with the appropriate County, State or Federal agency at any point during the process. Filing with an external agency will not terminate the internal procedure. However, the matter will be referred to the College’s attorney or SUNY Office of University Counsel for review.

**Rockland County**

Office of Employee Rights and Equity Compliance  
Robert L. Yeager Health Center  
Building A - 1st Floor  
Pomona, NY 10970  
Telephone No: (845) 364-3406  
Fax: (845) 364-3710

Office for People with Disabilities  
Robert L. Yeager Health Center  
Building A - 1st Floor  
Pomona, NY 10970  
Telephone No: (845) 364-2758  
Fax: (845) 364-3907

**New York State Division of Human Rights**

State Headquarters

New York State Division of Human Rights  
One Fordham Plaza, 4th Floor  
Bronx, NY 10458  
Telephone No: (718) 741-8400

Albany

New York State Division of Human Rights  
Empire State Plaza, Agency Building #2, 18th Floor  
Albany, NY 12220  
Telephone No: (518) 474-2705
Manhattan

New York State Division of Human Rights
20 Exchange Place, 2nd Floor
New York, NY 10005
Telephone No: (212) 480-2522

New York State Division of Human Rights
20 Exchange Place, 2nd Floor
New York, NY 10005
Telephone No: (212) 480-2522

New York State Division of Human Rights
Adam Clayton Powell State Office Building
163 West 123rd Street, 4th Floor
New York, NY 10027
Telephone No: (212) 961-8650

White Plains

New York State Division of Human Rights
30 Glenn Street, 3rd Floor
White Plains, NY 10603
Telephone No: (914) 949-4394

Office of Sexual Harassment

New York State Division of Human Rights
Office of Sexual Harassment
55 Hanson Place, Suite 347
Brooklyn, NY 11217
Telephone No: (718) 722-2060

Office of Aids Discrimination

New York State Division of Human Rights
Office of Aids Discrimination
20 Exchange Place, 2nd Floor
New York, NY 10005
Telephone No: (212) 480-2522
United States Department of Labor

Office of Federal Contract Compliance Programs
201 Varick Street, Room 750
New York, NY 10014
Telephone No: (212) 337-2006
Fax: (212) 620-7705

Albany District Office

19 Aviation Road
Albany, NY 12204-2199
Telephone No: (518) 435-0323
Fax: (518) 435-0417

New York District Office

26 Federal Plaza, Room 36-116
New York, NY 10278-0002
Telephone No: (212) 264-7742
Fax: (212) 264-8166