

3358: 14-3-19 Non-Discrimination/Anti-Harassment.

POLICY STATEMENT:

Northwest State Community College is committed to maintaining a workplace and academic environment free of discrimination and harassment. Therefore, the college shall not tolerate discriminatory or harassing behavior by or against trustees, employees, vendors, customers, students or other persons participating in a college program or activity.

Employees and students are expected to assist in the college's efforts to prevent discrimination or harassment from occurring. Administrators, supervisors, and employees who have been designated to act on behalf of the college are specifically responsible for identifying and taking proper action to end such behavior.

While the college does not tolerate any form of discrimination or harassment, the Non- Discrimination/Anti-Harassment Policy and related procedures are intended to cover discrimination and harassment based on a protected class. Protected classes for purposes of this policy are age, ancestry, color, disability, familial status (status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent), gender, gender identity or expression, genetic information (GINA), military or veteran status, national origin, race, religion, sex, and sexual orientation, or any other bases under the law. Through this and related policies, the College acknowledges and complies with its duties under Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, Sections 503 and 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, as amended, the Pregnancy Discrimination Act, and relevant state and local laws, by setting forth comprehensive frameworks for receiving, processing, investigating, and resolving complaints.

Anyone who is subjected to conduct that creates an intimidating or hostile environment, regardless if the conduct is based on a protected class, shall report the conduct to a person outlined in Section (E) of this policy. If Human Resources determines that the conduct alleged to be creating an intimidating or hostile environment is not based on a protected class, the report may be referred for remediation according to the relevant policy.

In furtherance of these expectations, employees must participate in required training.

(A) DEFINITIONS OF DISCRIMINATION/HARASSMENT

As used in this policy, the following terms are defined and will be adhered to as follows:

1. ***Discrimination*** – occurs when an adverse employment action is taken and is based upon a protected class. Discrimination may occur in several forms, such as:
 - a. ***Disparate Treatment*** - when a person, or a group of people are treated less favorably than another person or group of people on the basis of a protected class.
 - b. ***Disparate Impact*** - when a college policy, practice or decision is based on neutral factors that have an adverse impact on a protected class.

2. ***Harassment**** – (1) Unwelcome, protected class-based physical non-verbal or verbal conduct that (2) is sufficiently severe, persistent or pervasive that (3) it unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the university's education and employment programs and activities; and (4) is based on power differentials (*quid pro quo*) or the creation of a hostile environment. ***This definition does not include sexual harassment/misconduct, for policies related to those see Policy 3358:14-3-35.**
 - a. ***Hostile Work Environment*** - occurs when the conduct at issue is sufficiently severe or pervasive that it creates an intimidating, abusive or offensive environment regarding employment or academic decisions for a person in a protected class. A single instance of discrimination may be sufficient to create a hostile work environment.

(B) DISCRIMINATION/HARASSMENT INDICATORS AND EXAMPLES

- (1) Examples of discrimination/harassment include, but are not limited to the following:
 - i. Conduct that explicitly or implicitly affects an individual's or group's employment or academic achievement; unreasonably interferes with an individual's work performance or learning ability;

and/or creates an intimidating, hostile or offensive work, or academic environment when that person belongs to a protected class;

- ii. Verbal behaviors or comments, slurs, jokes, recordings, videos, music and personal references or use of negative terms used to identify someone in a protected class;

Non-verbal, offensive, graphic communication (i.e. obscene hand or finger gestures), bullying, demeaning, insulting, intimidating, or suggestive written material, email, posters, graffiti, cartoons, other electronically transmitted messages or use of social media which are directed at someone because of a protected class;

- iv. Any other conduct that has the effect of creating an intimidating, hostile, offensive work environment, or unreasonably interferes with a person's work or academic environment based on a protected class.

(C) CONSEQUENCES OF DISCRIMINATION/HARASSMENT

- a. **Employees** - any employee found to be in violation of this policy will be subject to disciplinary action, up to and including termination of employment.
- b. **Students** - any student found to be in violation of this policy will be subject to review and resolution in accordance with the Student Code of Conduct Policy 3358:14-5-08 and may be subject to disciplinary action in accordance therewith.

(D) REPORTING RESPONSIBILITIES AND FILING A COMPLAINT

- a. Anyone who believes that an administrator, any employee, supervisor, student, or non-employee's behavior constitutes discrimination or harassment has a responsibility to report the behavior/action as soon as it is known so that the college may

administer this policy.

- i. Allegations can be made by individuals who are directly involved in, who observe, or who receive reliable information that discrimination/harassment may have occurred.
- b. **Complaints Involving Employees**: In cases of alleged discrimination/harassment in employment or if the victim or alleged perpetrator is an employee, the complaint may be made to any of the following:
 - i. the Title IX Coordinator or Deputy Title IX Coordinator;
 - ii. an employee of Human Resources; or
 - iii. an employee of the NSCC Police Department.
- c. **Complaints Involving Students**: In cases of alleged discrimination/harassment when the victim and/or alleged perpetrator is a student, a potential student, or someone participating in a college-sponsored event or activity, the complaint may be made to any of the following:
 - i. the Title IX Coordinator or the Deputy Title IX Coordinator;
 - ii. the Vice President of Academics;
 - iii. an Academic Dean; or
 - iv. an employee of the NSCC Police Department.
- d. Any person designated to receive complaints under this policy who has direct or constructive knowledge of alleged discriminatory or harassing behavior must immediately report the behavior to the Office of Human Resources, Title IX Coordinator, Chief Student Affairs Officer or Deputy Title IX Coordinator. Failure to do so may result in disciplinary action, up to and including termination of employment.
- e. **Emergency**: Any person seeking immediate assistance or relief from bodily danger or a threat of bodily danger should immediately contact the Northwest State Community College

Police Department at 419-267-1452 or by dialing 9-1-1.

- f. Reporting: Complaints made in good faith will not be held against an employee or student in any way.
 - i. Any employee who knowingly or maliciously makes a false or frivolous allegation of discrimination or harassment will be subject to disciplinary action, up to and including termination of employment.
 - ii. Any student who knowingly or maliciously makes a false or frivolous allegation of discrimination or harassment will be subject to the process outlined by the Student Code of Conduct Policy 3358:14-5-08.

(E) ACADEMIC FREEDOM/FIRST AMENDMENT GUIDELINES

- a. The college is committed to providing a safe, anti-harassing, and nondiscriminatory environment that protects the civil rights of individuals, per College policies and in compliance with state and federal law, and the college recognizes the value of academic freedom in the classroom.
- b. College policies are not intended to restrict serious discussion of controversial issues in the academic classrooms or trainings. In light of this, to minimize the potential for multiple claims that course content is discriminatory, harassing or offensive, it is recommended that in courses where such discussions occur, faculty provide a disclosure that the content covered may be controversial. However, employees and students are encouraged to file complaints in accordance with Sec. D in this policy for reasons specified therein.

(F) CONFIDENTIALITY

To the extent possible, all information received in connection with the reporting, investigation, and resolution of allegations will be treated as confidential, except to the extent it is necessary to disclose information in order to investigate, prevent or address the effects of

the discrimination/harassment, resolve the complaint or when compelled to do so by law. All individuals involved in the process should observe the same standard of discretion and respect for the reputation of everyone involved in the process.

(G) RETALIATION

The college, in compliance with federal, state and local law that strictly prohibits it, will not tolerate retaliation in any form against any individual who files a complaint or report, makes an allegation, or who participates in an investigation of discrimination or harassment. Retaliation is a serious violation that can subject the offender to discipline, up to and including termination of employment and/or student status, independent of the merits of the underlying allegation. Allegations of retaliation should promptly be directed to the Title IX Coordinator or Deputy Title IX Coordinator.

(H) College administration will develop procedures related to this policy.

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CERTIFIED ELECTRONICALLY

Certification

03/04/2015

Date

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