



## **ANTI-BULLYING POLICY**

### **PURPOSE**

SUNY Westchester Community College is committed to maintaining the highest standard of behavior where every member of the College community conducts themselves in a manner that demonstrates proper regard for the rights and welfare of others. Therefore, this Anti-Bullying Policy seeks to promote civility and respect, educate the College community about bullying, and clarify disciplinary action that may result from inappropriate conduct.

SUNY Westchester Community College prohibits bullying and related behaviors. Bullying and related behaviors are demeaning and offensive, and can foster a climate of fear, intimidation and disrespect which seriously impairs the physical and psychological health of its victims. Moreover, these behaviors create conditions that negatively affect any learning and working environment. Thus, mental, physical and/or emotional intimidation and/or bullying will not be tolerated. All forms of bullying shall be investigated and addressed in a timely manner in accordance with this policy in order to maintain a safe working and learning environment. SUNY Westchester Community College is committed to the principle of academic freedom and the right to freedom of speech, and this policy shall not be interpreted as interfering with this principle and this right.

### **POLICY**

Bullying, including but not limited to the acts as defined below, is strictly prohibited on any College property; at any College function, event, or activity; and/or through the use of any electronic or digital technology, whether or not such act occurs on College property. As long as there is a nexus between the behavior and the involved individuals' College affiliation, attendance and/or employment, this policy prohibiting acts of bullying shall apply.

All forms of bullying shall be investigated and addressed in a timely manner in accordance with this policy to maintain a safe working and learning environment.

### **SCOPE**

To advance the goal of establishing and maintaining a College environment that is free from bullying of all types, this policy shall apply to and be binding on every member of the College community, including all College employees, volunteers, and vendors, with the exception stated below. It shall be used to address complaints of bullying, as defined herein, perpetrated by members of the College community against other College employees, against students or against third parties (i.e., other vendors, visitors, etc.).

This policy shall not apply to acts of bullying committed by College students, as such actions and complaints are addressed through and shall be investigated and resolved pursuant to the College's Code of Conduct administered by the Dean of Students.

**DEFINITIONS:**

**A. Bullying:**

Bullying is defined as the aggressive and/or hostile act(s) of an individual or group of individuals which are intended to and/or do humiliate, mentally or physically injure, or intimidate, and/or operate to control another individual or group of individuals. To constitute bullying, as defined herein, the reported act(s) must create or intend to create a working and/or learning environment that a reasonable person would find intimidating, hostile or offensive. Acts of bullying can occur as a single incident or repeated incidents, and may manifest in one or more of the following forms, which include but are not limited to:

- a. Physical Bullying includes pushing, shoving, kicking, poking, and/or tripping another; assaulting or threatening a physical assault; damaging a person's work area or personal property; and/or damaging or destroying a person's work product. Such acts will be addressed under this policy, as well as in accordance with the SUNY WCC Workplace Violence Policy.
- b. Verbal/Written Bullying includes ridiculing, insulting, or maligning a person, either verbally or in writing; addressing abusive, threatening, derogatory or offensive remarks to or about a person; writing communications that result in public humiliation and create a hostile work environment.
- c. Nonverbal Bullying includes pointing, staring, laughing, or making faces or directing threatening or intimidating gestures toward a person or invading an individual's personal safe space (intimate distance is established as 0-4 feet) after being asked to move or step away.
- d. Cyber-bullying includes acts of bullying which occur by and through the use of any electronic medium, including, but not limited to, the Internet, email, social media, interactive and digital technologies, and/or mobile phones. Cyber-bullying is strictly prohibited whether or not such action occurs on College property, provided there is a nexus between the cyber-bullying and the involved individuals' College attendance and/or employment.

**3. Bullying shall not include circumstances wherein:**

- a. A supervisor or any person with supervisory authority reports and/or documents an employee's unsatisfactory job performance and the potential consequences for such performance.
- b. A faculty member, administrator, or staff reasonably is advised of unsatisfactory academic work, or a faculty member is enforcing classroom / department management.
- c. A faculty member, administrator or staff advises, alerts, and warns in writing or verbally of inappropriate behavior that may result in disciplinary proceedings.

**B. Complainant:**

A Complainant is an Individual who makes a report of bullying or stalking behavior(s) committed against him/her.

**C. Respondent:**

A Respondent is an Individual accused of bullying or stalking in violation of this policy.

**APPLICABILITY**

This policy does not prohibit the Complainant from filing a complaint with the appropriate local, state, or federal authorities/agencies. It is further understood that:

1. Filing a complaint externally will not prohibit the College from conducting an internal investigation.
2. Complaints filed under this policy will not preclude the advancement of charges in accordance with other College policies, such as policies prohibiting discrimination and bias, sexual harassment.

**REPORTING PROCEDURE**

a) Complaints alleging bullying by College employees perpetrated against other employees, students, or third parties (such as service providers) should be reported immediately to the Office of Human Resources and/or the Office of Public Safety.

b) The Respondent shall be considered "not responsible" until a finding of responsibility is made pursuant to the provisions of this policy. However, in the event the Respondent presents a continuing threat to the health and safety of the College community, or if the complaint rises to the level of criminal behavior, they will be subject to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and College policies.

c) The College will conduct an investigation that is fair, impartial, and conducted by individuals without a conflict of interest, and which provides both the Complainant and the Respondent a meaningful opportunity to be heard in accordance with the **SUNY Westchester Community College Employee Investigative Process**.

This document can be found on MyWCC, as follows: [Human Resources Information > Policies and Procedures > "Employee Investigative Process"](#)

**CONFIDENTIALITY**

Every possible effort will be made to maintain the confidentiality of the Complainant and Respondent.

**RESPONSIBILITY & PROCESS**

The Office of Human Resources and/or the Office of Public Safety will share the implementation and enforcement processes of this policy at the College. The Office of Human Resources and the Office of Public Safety shall actively collaborate in the investigation and resolution of all complaints made under this policy, and shall also maintain a single unified database of all such complaints to ensure the synergy of review, investigation and record-keeping of all such complaints, particularly to ensure that any instance of multiple complaints against the same individuals or individuals is easily aggregated and/or identifiable. Department Heads, Chairs and Directors shall ensure that all personnel within their areas comply with all of these requirements. Any disciplinary action will be taken in accordance with the appropriate collective bargaining agreement and/or Code of Conduct.

**Inquires/Requests:**

Office of Human Resources  
Westchester Community College



# Westchester Community College Employee Investigative Process

## Formal Investigation

The Investigator(s) will commence an investigation if the Complainant or WCC wishes to proceed and the preliminary inquiry shows that reasonable cause exists. All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

Investigations are completed expeditiously, normally within sixty (60) calendar days, though some investigations take weeks or even months, depending on numerous factors, including the nature, extent and complexity of the allegations and the availability of witnesses. A delay may also occur when criminal charges on the basis of the same behaviors that invoke this process are being investigated, to allow for evidence collection by the law enforcement agency. WCC will resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. WCC action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed, or that charges have been dismissed or reduced.

The Investigator(s) take the following steps, if not already completed (not necessarily in order):

- a) In collaboration with the Office of Human Resources (OHR) and/or Office of Diversity, Equity & Inclusion (ODEI), initiate or assist with any necessary interim remedial actions;
- b) Identify all policies and/or contractual agreements allegedly violated;
- c) Make determination if case is facilitated by OHR or ODEI;
- d) Provide the Respondent with notice of questioning that a formal investigation has commenced.
- e) Provide written notification to the Respondent that they may have the union representative or peer representative (for non-representative managers) present at each meeting they attend;
- f) Provide regular updates to the Complainant and the Respondent, as appropriate, throughout the investigation;
- g) For staff, recommend a finding to the supervisor and/or administrative manager based on investigative outcomes (policy violation, recommendations, etc.), and if warranted, recommend disciplinary action(s) and/or sanction(s).
- h) Based upon the case, a determination with recommendations, for ODEI case outcomes is shared with the Office of the President;
- i) Imposing sanctions is then referred to OHR for execution for all founded disciplinarys
- j) At the conclusion of the investigation, an investigative report is maintained in Maxient;

The Investigator(s) shall jointly draft the finding report and make recommendations for disciplinary action(s) or sanction(s) and shall present the findings and disciplinary actions or sanctions to the Parties, without undue delay between notifications.

All investigation meetings are private. No unauthorized audio or video recording of any kind is permitted during investigation meetings. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with WCC's policies.

### **Union Representatives or Peer Support**

Each party is allowed to have a Union Representative or Peer Support (non-representative managers) of their choice present with them for all meetings and proceedings throughout the resolution process. Union Representatives should help their members prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. Peer Support is support for purposes only for the non-representative managers and cannot interfere or participate in the process.

Peer Support are expected to refrain from interference with the investigation and resolution. Any Peer support who steps out of their role will be warned only once. If the Peer Support continues to disrupt or otherwise fails to respect the limits of his or her role, the Peer Support will be asked to leave the meeting. When a Peer Support is removed from a meeting, that meeting will typically continue without the Peer Support present. Subsequently, the Office of Human Resources will determine whether the Support may be reinstated, may be replaced by a different Support, or whether the party will forfeit the right to a Supporter for the remainder of the process.

The parties must advise the Investigator(s) of the identity of their Peer Support at least one (1) day before the date of their first meeting with the Investigator(s) (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide notice to the Investigator(s) if they change Peer Support at any time.

### **Examples of Employee Sanctions:**

The following are examples of sanctions that may be imposed upon Respondent employees, singly or in combination, who are found to have engaged in discrimination, harassment, sexual misconduct and/or retaliation include:

- Warning-Verbal or Written;
- Performance Improvement/Management Process;
- Required Counseling;
- Required Training or Education;
- Probation;
- Loss of Annual Pay Increase;
- Loss of Oversight or Supervisory Responsibility;
- Demotion;
- Suspension with pay;
- Suspension without pay;
- Fees imposed
- Termination; and
- Other Actions: In addition to, or in place of the above sanctions, WCC may assign any other sanctions as deemed appropriate.

# Employee Investigation Process

