

Policy: **Equal Employment Opportunity (EEO)**

Responsible for Policy: Human Resources

Policy Number: **I-10**

Most recent approval date: Fall 2012

### **Policy Statement**

Finger Lakes Community College is an Equal Opportunity Employer and all personnel decisions, such as recruitment, hiring, compensation benefits, and discipline shall be administered without regard to race, religion, color, sex, sexual orientation, national origin, age, disability, military service or veteran status, marital status, genetic information or any other characteristic protected by law. The College prohibits and will not tolerate discrimination or harassment on the basis of race, religion, color, sex, sexual orientation, national origin, age, disability, military service or veteran status, marital status or any other characteristic protected by law. Finger Lakes Community College will comply with all applicable equal employment opportunity laws.

Retaliation is prohibited against any person who files a charge of discrimination, participates in an OFCCP proceeding or otherwise opposes discrimination under federal law.

### **Reason for Policy**

This policy is in compliance with Federal and state anti-discrimination laws, including, but not limited to, Title VII of the Civil Rights Act of 1964, *42 U.S.C., § 2000e, et seq.*, and the New York Human Rights Law.

### **Applicability of the Policy**

This policy applies to all College employees.

### **Definition**

Equal Opportunity Employment (EOE): refers to the unbiased availability of employment to all. Such access to employment and remuneration is to be maintained regardless of age, geographic location, disability, sex, race, color, creed, religion, national origin, marital status, veteran status or other personal affiliations.

Equal Opportunity Employment succeeds through its rigorous stress on individual qualifications due to ability and experience. It is a necessary pre-condition for an Affirmative Action program and is a cornerstone of quality in an institution. Necessary criteria to ensure the objectivity required of an Equal Opportunity Employment effort is implemented adequately by the following procedures. However, these procedures are not regarded as an end in themselves, but rather as a means to achieve Equal Opportunity Employment. They may be modified as experience dictates.

### **Related Documents**

- Title VII, Civil Rights Act of 1964
- Title IX of the Educational Amendments of 1972
- Civil Rights Restoration Act of 1988
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act (ADA) of 1990
- Federal and State anti-discrimination legislation
- NYS Human Rights Law
- FLCC Americans with Disabilities Act policy
- FLCC Obligation to Report Discrimination or Harassment policy

### **Review date/action taken: (requires Board of Trustees approval)**

- May 2010: original approval date
- Fall 2012: review, no policy revisions

## **Procedures**

In a continuing effort to seek equity in education and employment, and in support of Title VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972 the Civil Rights Restoration Act of 1988, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990 and federal and state anti discrimination legislation, Finger Lakes Community College provides a grievance procedure for the prompt and equitable investigation and resolution of allegations of discrimination or harassment based on age, ancestry, color, disability, national origin, race, religion, creed, sex, sexual preference, veteran status, and marital status.

a. These procedures may be used by any Finger Lakes Community College student or employee and are not intended to supplement or duplicate any already existing grievance procedure, including the informal resolution process currently in practice. Employee grievance procedures established through negotiated contracts, academic grievance review committees, student disciplinary grievance boards and other procedures defined by contract or local bylaws will remain in effect. Title VII, Title IX, Section 504, ADA and the Civil Rights Act grievance procedures are outlined below. These procedures do not deprive a complainant of their rights to file with outside enforcement agencies, such as the New York State Division of Human Rights, the Equal Employment Opportunity Commission, the Office of Civil Rights of the Department of Education or the Office of Federal Contract Compliance of the Department of Labor, and all complainants are free to exercise such rights at any time.

b. Finger Lakes Community College provides this formal and informal grievance procedure as an internal mechanism through which employees and students may identify and eliminate incidents of discrimination. FLCC recognizes and accepts responsibility in this regard and believes that the establishment of this internal, non adversarial grievance process will benefit students, faculty, staff and administration alike by permitting investigation and resolutions of the problem.

## Responsibilities

a. Finger Lakes Community College managers and supervisors shall:

- (1) Address conduct that has the potential to create sexual and any other form of harassment or discrimination.
- (2) Establish an atmosphere conducive to freely receiving complaints from subordinates or students.
- (3) Address issues of student and staff harassment/discrimination with the subordinate employee, and/or with the subordinate's supervisor (if the employee is outside the supervisor's department).
- (4) Attempt serious mediation with all involved parties.
- (5) Refer the incident to the designated College Officer as identified in section 3, subsection c of this policy.

b. Finger Lakes Community College employees shall:

- (1) Make an effort to inform the individual of his/her offensive behavior and request that the behavior be stopped.
- (2) Talk with his/her supervisor or the harassing individual's supervisor about the incident(s) and of the request for the conduct to cease.
- (3) Re-inform his/her supervisor or the harassing individual's supervisor if the offensive behavior continues.
- (4) Contact the designated College Officer as identified in section 3, if the harassing individual is his/her supervisor.
- (5) Work cooperatively with the designated College Officer to resolve the issue.
- (6) Use any other grievance procedures that are available, comfortable and/or appropriate for the complaint.

c. The first step in a grievance procedure should be the informal process, followed by a formal grievance when necessary. The designated College Officer will meet with the complainant for an informal hearing about all alleged violations. At this meeting the complainant will be advised of the right and requirements for filing a formal grievance through the internal College procedure and external state and federal enforcement agencies. If the grievance is an issue under Section 504, the Director of Human Resources will work in conjunction with the Section 504 coordinator(s) throughout the process.

### Filing a grievance

The grievance must be submitted in writing on forms provided by Finger Lakes Community College.

- a. The Director of Human Resources is designated to receive all employee grievance complaints.
- b. The Vice President of Academic & Student Affairs is designated to receive all student grievance complaints (see Student Code of Conduct).
- c. In the event that one of the College Officers named in this policy is the complainant or respondent, the Affirmative Action Committee chairperson shall assume responsibility for processing the complaint. If the College President is the complainant or respondent, the FLCC Board of Trustees shall assume responsibility for processing the complaint.

### Procedures for an Informal Grievance

- a. At the informal level, supervisors must make every effort to resolve the complaint presented. The appropriate College Officer must also be informed to help resolve the complaint. The College Officer shall receive any complaint of alleged discrimination, assist the complainant in defining the charge and provide the complainant with information about the various internal and external mechanisms through which the complaint may be filed, including applicable time limits for filing with each agency.
- b. The College Officer shall seek to resolve the complaint informally and shall have the right to access all relevant information and to interview witnesses, including the right to bring both parties together, if desirable. It is the College Officer's responsibility to inform the offending individual of the nature or circumstance of the complaint and work to bring about a satisfactory resolution. Any investigation should be concluded within thirty calendar days after the complaint is received. When this is not reasonably possible, the complainant should be notified in writing of the delay and the reasons for the delay.
- c. Within ten work days of concluding the investigation the College Officer shall notify the complainant in writing of the outcome or resolution and advise them of their right to proceed to the next step internally by following the Procedures for a Formal Grievance or to file with the appropriate external enforcement agencies immediately.

### Procedures for a Formal Grievance

- a. If the complainant chooses to use the Finger Lakes Community College Formal Grievance Procedure for the Review of Allegations of Discrimination, the designated College Officer shall assist the complainant to fill out the appropriate form, signing and dating a copy of the completed form for the complainant.
- b. If a formal complaint with a state or federal agency or a court action is filed by a complainant, any internal investigation or review under way of the same complaint will be discontinued. The timelines for filing with outside agencies are 180 days for EEOC and OCR complaints and 365 days for Division of Human Rights complaints.
- c. If the complainant chooses to proceed through the Finger Lakes Community College Formal Grievance Procedure, the complainant shall notify the designated College Officer in writing.
- d. The complainant's statement, together with a statement from the designated College Officer indicating that informal resolution was not possible, shall be forwarded to the Grievance Committee chairperson of the FLCC Affirmative Action Committee within five calendar days. The chairperson shall be someone other than the designated College Officer.

(1) Within seven calendar days of receipt, the Grievance Committee chairperson shall notify the complainant, respondent and College President that a review of the grievance shall take place by a three-member ad hoc tripartite committee to be selected (one each) by the complainant, the respondent, and the College President from a pre-selected panel of candidates.

(2) The aforementioned pre-selected panel shall consist of campus administrators, faculty, employees, and students recommended by the campus Affirmative Action Committee. (It shall be the responsibility of the FLCC Affirmative

Action Committee to establish such a panel each year). Selection must be completed and written notification of designees submitted to the Grievance Committee chairperson within seven calendar days.

e. The Tripartite Committee shall review the grievance, and members shall have the right to access all relevant information, to interview witnesses, and to bring complainant and respondent together, if desirable. Both the complainant and respondent shall be permitted rebuttal to the written record compiled by the Committee.

f. The chairperson of the Tripartite Committee has 48 calendar days from the completion of the selection of panel members to submit its findings and recommendations regarding whether or not discrimination or harassment had occurred to the College President for further action. The panel shall concurrently transmit copies to the complainant, respondent, and Affirmative Action Officer.

g. The College President or designee shall communicate the findings of the tripartite committee in writing to the complainant, the respondent, the Affirmative Action Grievance Committee chairperson and the designated College Officer within seven calendar days. Said communication will include a statement indicating his/her acceptance or rejection of the committee's recommendation and/or other reasonable solutions to cease activities. The President will indicate his/her decision to either dismiss the charge for lack of evidence or discuss appropriate redress with the complainant within five calendar days if a legitimate grievance has been founded.

h. If the complainant is dissatisfied with the College President's response because of a negative finding or disagreement over what constitutes appropriate redress, said complainant may file a formal complaint with the appropriate state or federal agency. The FLCC Affirmative Action Committee chairperson will provide the complainant with guidelines, laws, names and addresses of the appropriate state or federal enforcement agencies.

i. The written summary of the findings from the investigation and committee recommendations shall be forwarded to the Human Resources Office.

#### **Forms/Online Processes**

- FLCC Grievance form

#### **Appendix**

- None

#### **Review date/action taken:**

- May 2010: original effective date
- Fall 2012: review