

**TITLE: ANTI-DISCRIMINATION AND ANTI- HARASSMENT**

**REF #: 4.5.11.**

**DATE(S) OF POLICY AND POLICY REVISION APPROVALS: April 23, 2013; December 8, 2009; October 1993**

Luzerne County Community College (hereinafter referred to as the “College”) is committed to a work, academic and public environment in which all individuals are treated with respect and dignity. The College and its employees have a moral and legal obligation to provide equal access and equal opportunity to all members of the community. The administration will ensure that this commitment is fully implemented through compliance with all relevant federal, state, and municipal laws, statutes and ordinances prohibiting discrimination, including, but not limited to the First Amendment to the United States Constitution; the Constitution of the Commonwealth of Pennsylvania; Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991 ("Title VII"); Title IX of the Education Amendments of 1972, Section 503 of the Rehabilitation Act of 1973; the Vietnam Era Veterans Readjustment and Assistance Act (“VEVRAA”); the Genetic Information Nondiscrimination Act (“GINA”); the Age Discrimination in Employment Act (“ADEA”); The Older Workers Benefit Protection Act (“OWBPA”); the Americans with Disabilities Act (“ADA”); the Pennsylvania Human Relations Act (“PHRA”); the Family and Medical Leave Act (“FMLA”); the Employee Retirement Income Security Act of 1974 (“ERISA”); the Sarbanes-Oxley Act, the Fair Credit and Reporting Act (“FCRA”); and any amendments to these laws. The institution will implement procedures and measures designed to ensure that employees, students, applicants and visitors to the campus or any site or program of the College are not discriminated against on the basis of race, color, gender, sexual orientation, disability, age, veteran status, national origin, religion, marital status, political affiliation, ancestry, union membership and use of a guide or support animal because of blindness, deafness, or physical handicap in the administration of its educational programs, activities, admission or employment practices. Any acts of reprisal, retaliation or harassment taken against an individual because he/she has filed a discrimination complaint, testified about matters related to a complaint, or otherwise assisted a complaint inquiry are forbidden and may result in severe disciplinary action. Inquiries may be directed to the Dean of Human Resources at 800-377-5222 extension 7234. The College takes any allegation of discrimination as serious. Any individual who knowingly or intentionally makes a false allegation or complaint, will be disciplined, up to and including termination of employment.

**DEFINITION OF UNLAWFUL HARASSMENT**

**Sexual Harassment**

The College is committed to (1) assuring that no employee’s job, continued employment, evaluation, promotion or other aspect of career development will be dependent upon a favorable response to sexual advances or demands; (2) assuring that no student’s status, grade, or other aspect of his/her education, will be dependent upon a favorable response to sexual advances or demands; (3) providing a means of resolving what is considered by the employee or student to be sexual harassment; and (4) taking prompt and appropriate action to correct any such situations.

Sexual harassment constitutes discrimination and is illegal under federal, state, and local laws. It is defined as unwelcome sexual advances (either verbal or physical), requests for sexual favors, and other verbal and/or physical conduct of a sexual nature that is unwelcome, personally offensive, lowers morale and, therefore, interferes with work or academic effectiveness. It also includes conduct that is not overtly sexual but is directed to an employee or student because of his or her gender. It generally refers to situations in which one or more of the following are present (this list is not all-inclusive):

- (1) submission to such conduct is made an implicit or explicit term or condition of one's employment or academic status;
- (2) submission or rejection of such conduct is used as a basis for employment or academic assessment decisions; and
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive work environment

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, whistling or touching; insulting or obscene comments or gestures; display in the workplace/academic environment of sexually suggestive objects or pictures; and other physical, verbal or visual conduct of a sexual nature. It also includes conduct that is not overtly sexual but is directed to an employee or student because of his or her gender.

Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome and is personally offensive to the recipient or others who are witness to the behavior.

### **Other Unlawful Harassment**

Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, such harassment includes verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, sexual orientation, national origin, age, disability, marital status, citizenship or any other characteristic protected by law or that of his/her relatives, friends or associates, and that: (i) has the purpose or effect of creating an intimidating, hostile or offensive work/academic environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work/academic performance; or (iii) otherwise adversely affects an individual's employment/educational opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group and that which is placed on walls or elsewhere on the employer's premises or circulated in the workplace/academic environment.

### **INDIVIDUALS AND CONDUCT COVERED**

This policy applies to all applicants for employment, employees, students and visitors to the College, and to conduct engaged in by fellow employees, supervisors, managers, students or anyone not directly connected to the College, including but not limited to customers, consultants, and outside vendors.

Conduct prohibited by these policies is unacceptable in the workplace/academic environment and in any work- or academic-related setting outside College property, such as during business trips, business meetings, and business-related social events, field trips, sporting competition events and other College-related activities.

### **REPORTING HARASSMENT, DISCRIMINATION, AND RETALIATION**

The College will not tolerate sexual or other types of harassment and/or discrimination and will take action to eradicate problems as they arise. Although the College is committed to protecting individuals from harassment, discrimination, and retaliation, it cannot protect individuals from such behavior if it is unaware that it is occurring. It is the responsibility of anyone who has been the subject of harassment, discrimination, or retaliation, or has become otherwise aware of its occurrence, to report the incident(s) immediately.

Anyone who feels that he or she has been a victim of harassment, discrimination, and/or retaliation should immediately report such incidents to his or her supervisor, department head, or the Dean of Human Resources. In addition, the College encourages individuals who believe they are being subjected to such conduct promptly to advise the offender that his or her behavior is unwelcome and request that it be discontinued. Often this action alone will resolve the problem. The College recognizes, however, that an individual may prefer to pursue the matter through a complaint procedure. The College's detailed Discrimination Complaint Procedure can be found on the College's Intranet under College Forms and Resources/Human Resources.

The College encourages the prompt reporting of complaints or concerns so that rapid and constructive action can be taken before relationships become irreparably strained. Therefore, while no fixed reporting period has been established, early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment.

### **INVESTIGATION OF COMPLAINTS**

Any reported allegations of harassment, discrimination, or retaliation will be investigated promptly. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.

Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action. Acts of retaliation should be reported immediately and will be promptly investigated and addressed.

Individuals are assured that this policy has been established for their benefit to allow them the freedom of expressing their feelings and/or complaints. No employee or student should fear that he or she will be penalized for making use of the policy, as the College's primary concern is that harassment be reported so that it can be stopped.

## **CONCLUSION**

The College has developed this policy to ensure that all of its employees, students, vendors and all visitors to the College can work and study in an environment free from harassment, discrimination, and retaliation. The College will make every reasonable effort to ensure that all individuals are familiar with this policy and aware that any complaint in violation of such policies will be investigated and resolved appropriately. Any employee who has any questions or concerns about this policy should talk with the Dean of Human Resources.

False and malicious complaints of harassment, discrimination or retaliation as opposed to complaints which, even if erroneous, are made in good faith, may also be the subject of appropriate disciplinary action.

Finally, this policy should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, or any other protected characteristic, from participating in business or work-related and/or academic-related social activities or discussions. In other words, no one should make the mistake of engaging in discrimination or exclusion in order to avoid allegations of harassment. The law and the policies of the College prohibit disparate treatment on the basis of sex or any other protected characteristic, with regard to terms, conditions, and privileges of employment. The prohibitions against harassment, discrimination, and retaliation are intended to complement and further those policies, not to form the basis of an exception to them.