

CHAPTER 4 College Operations	SECTION NO. 4.10
REFERENCE 4.10.01 Grievance Procedures for Discrimination/Affirmative Action	<i>Adopted: October 12, 2010</i> <i>Reviewed: October 12, 2010</i> <i>Revised:</i>

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For Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972, Section 504 of the Vocational Rehabilitation Act of 1973, Age Discrimination in Employment Act of 1975; Americans with Disabilities Act of 1990; and Sexual Harassment of Students/Staff

1.00 Introduction. These Procedures are adopted by Kishwaukee College as part of the College's continuing commitment to an effective policy of non-discrimination and equal opportunity in all employee and/or student actions, without regard to race, color, religion, sex, age, national origin, disability status, or sexual orientation. The College will not tolerate harassment by any of its employees or students. For general policy purposes, sexual harassment may be described as unwelcome sexual advances, requests for sexual favors, and other physical and expressive behavior of a sexual nature where: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; (2) submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating, hostile or demeaning employment or educational environment. These Procedures (a) provide the means of prompt and equitable hearing of employee and/or student affirmative action grievances on both an informal and formal basis; and (b) permit the College administration and the Board to become aware of situations which may require remedial action.

1.01 These Procedures are available to all employees of, applicants for employment by, students in, and applicants for admission to Kishwaukee College (collectively called "employees" and "students").

1.02 An Affirmative Action grievance (called a "grievance") is a claim by an employee or student (called the "claimant") that an action which violates College policies of non-discrimination, equal opportunity, and/or sexual harassment has been, or is about to be, taken with respect to the claimant.

1.03 These Procedures offer claimants the means of bringing their grievances to the attention of those persons who can take quick action to remedy any discrimination or action found to exist at the College. Even the formal review procedures are informal in nature--they are not intended to be court-type procedures. While employees

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and students are encouraged to do so, they are not required to make use of these Procedures. The right to use these Procedures is intended to supplement, not to replace, any other rights which employees and students may have.

1.04 No claimant's status as an employee or student will be adversely affected in any way because he or she utilizes these Procedures. All employees and students are advised that any retaliation or attempt to retaliate against a claimant for the use of these Procedures or against any employee or student for participating in any manner in proceedings hereunder constitutes a violation of these Procedures and may also be a violation of law.

1.05 Any applicant for employee or student status is invited to bring any grievance to the attention of the Director of Human Resources, who has been approved by the President as this institution's Affirmative Action officer. Communication of this has been and continues to be made via the College's non-discriminatory policy statement.

2.00 Informal Review of Grievances. An employee or student is encouraged to "speak up" when a problem relating to discrimination or sexual harassment arises. The flexibility of informal discussions often results in solutions to problems more easily and quickly than do formal procedures.

2.01 An employee with a grievance should discuss the problem with his or her supervisor. A student with a grievance should discuss the problem with an instructor or counselor of his or her choice. Experience has demonstrated that problems of perceived or actual discrimination are normally best handled by informal discussions or conciliation.

2.02 If in doubt as to how to proceed, an employee or student should contact the Director of Human Resources. In any event, an employee or student who believes that he or she has been sexually harassed or discriminated against because of sex, race, color, religion, age, national origin, disability status or sexual orientation is strongly encouraged to discuss his or her problem with the Director of Human Resources before pursuing formal review procedures.

2.03 An applicant for employee or student status with a grievance should discuss the problem with the Director of Human Resources

2.05 If, during the informal review procedure, the Director of Human Resources should determine that there is reasonable cause to believe that a complaint is true and that the complaint alleges a grievance as defined in these Procedures, the Director of Human Resources shall recommend appropriate remedial action to the complainant's supervisor or other person authorized to take such remedial action. If the person to whom such remedial action is recommended does not take such action as soon as is practicable, the Director of Human Resources shall immediately bring the matter to the attention of the President, who may take such administrative action as he/she deems appropriate.

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2.05 A claimant with a grievance against the Director of Human Resources should contact the President for informal review.

3.00 Formal Review of Grievances. The formal review procedures have been established for those grievances which remain unsolved five days after informal review has occurred. ("Days" refer to weekdays which are Monday through Friday, regardless of working schedule, excluding weekdays on which the College is not open for business.)

3.01 A claimant whose grievance remains unresolved five days after informal review procedures may file a charge within thirty days after the action constituting the alleged grievance occurred, or within thirty days of the employee or student having reasonable knowledge of the action. Charges should be in writing under oath or affirmation and contain such information as the person receiving the charge requires, including, but not limited to, the date, place, and nature of the alleged grievance; the identity of the person or persons alleged to have committed such grievance (called the "respondent"); a concise statement of the alleged facts and circumstances upon which the grievance is based; and the identity of any witnesses or other persons known to the claimant having knowledge of the facts and circumstances. The charge should be accompanied by copies of any documents which the claimant believes are relevant.

3.02 If there is a reasonable explanation of why a claimant has failed to file a charge within the required time limit, the time limit may be waived by the person with whom the charge is filed.

3.03 A claimant with a charge identifying the Director of Human Resources as a respondent may file such a charge with the President. All other charges should be filed with the Director of Human Resources.

3.04 Whenever a charge is filed, the person receiving the charge, or his or her designee, shall serve a notice of the charge (including the name of the claimant, date, place, and nature of the alleged grievance) on the respondent within five days after receipt of the charge, and shall make, or cause to be made, an investigation of the charge. The respondent may, but is not required to, submit information in writing which will be made a part of the file and considered in the investigation.

3.05 If the person receiving the charge should determine after the investigation and conferring with the claimant (a) that there is not reasonable cause to believe that the charge is true, or (b) that the charge does not allege a grievance as defined in these Procedures, such person shall dismiss the charge and promptly serve written notice on the claimant and the respondent of such action. The determination whether to dismiss a charge shall be made as promptly as possible and, so far as practicable, not later than ten days from the filing of the charge.

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3.06 If the person receiving the charge should determine after investigation and conferring with the claimant and the respondent that there is reasonable cause to believe that the charge is true and that the charge alleges a grievance as defined in these Procedures, such person, or the designee of such person, shall promptly endeavor to remedy the grievance by informal methods of conference, conciliation, and persuasion, and by seeking appropriate administrative or Board action, and shall promptly serve written notice on the claimant and on the respondent of any such administrative or Board action which may result. So far as practicable, final disposition of all charges shall be made not later than thirty days from filing of the charge.

3.07 Whenever the person receiving a charge concludes on the basis of a preliminary investigation that prompt action is necessary to avoid violation of College policies of non-discrimination and equal opportunity, that person immediately may seek appropriate temporary or preliminary administrative or Board action pending final disposition of the charge.

3.08 If the person receiving the charge determines that it is appropriate to delegate any of the responsibility to investigate the charge imposed by Section 3.05, such responsibilities shall be delegated by the President after consultation with the necessary personnel.

3.09 At least three days prior to taking any of the actions contemplated by Sections 3.05 or 3.06, the person receiving the charge shall submit the charges, investigation reports, and summary of tentative proposed action to the President for his/her advisory recommendations. Such person shall also furnish a report to the President concerning any grievance resolved prior to action being taken as well as a report of any action taken.

4.00 Appeal. A claimant or respondent who is dissatisfied with the outcome of the formal review procedure may file an appeal within five days after the date on which notice under Section 3.05 or 3.06 is served. The Director of Human Resources or the President can receive the appeal.

4.01 Appeal shall be in writing, shall state the grounds for the appeal, and shall be accompanied by copies of all documents which the appellant deems pertinent to the appeal. At the time of filing an appeal, the appellant shall also serve copies of the appeal and all attached documents on the person giving the notice, and on the appellee (who is the respondent in the case of an appeal by a complainant and is the complainant in the case of an appeal by a respondent).

4.02 Within five days after the date on which an appeal is filed, the person giving the notice and the appellee may file written replies to the appeal, accompanied by copies of all documents deemed pertinent to the appeal, with copies served on all other parties.

4.03 The party to whom the appeal is made shall decide the appeal on the basis of the grievance file and the papers submitted pursuant to Section 4.01 and 4.02. The party deciding the appeal may also attempt to resolve the appeal by informal methods. If practicable, written notice of the decision on an appeal shall be served on all parties within ten days after the date on which the appeal is filed.