

# Non-Discrimination and Anti-Harassment Policy

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(October 2018)

**North-West College, Glendale Career College, and Nevada Career Institute (NWC/GCC/NCI) are committed to equal opportunity and creating and maintaining an educational and working environment free from discrimination and harassment as described in this policy.**

This policy prohibits such discrimination and harassment and applies to all students and employees.

When the College/Institute becomes aware that a member of the College/Institute community may have been subjected to or affected by discriminatory and/or harassing behavior, the College/Institute will take prompt action, including a review of the matter and, if necessary, an investigation and appropriate action to stop the discrimination and/or harassment. The course of action taken by the College/Institute, including any disciplinary penalty, will depend on the particular facts and circumstances involved.

This policy does not address **sexual assault, domestic or dating violence, or stalking**. Those categories of prohibited conduct are governed by the College/Institute's *Title IX/Sexual Misconduct Policy*, which also establishes separate procedures that outline reporting options and explain how the College/Institute assesses, investigates, and resolves reports of such prohibited conduct against students and employees. The *Title IX* policy and related procedures supersede any conflicting information contained in this Policy.

## I. Definitions

**Protected characteristics** are those personal traits, characteristics and/or beliefs that are defined by applicable law as protected from discrimination and/or harassment. They include race, creed, color, sex, gender identity or expression, age, national origin, ancestry, religion, physical or mental disability, military and veteran status, marital or domestic partnership status, affectional or sexual orientation, and/or other characteristics protected by applicable law.

**Discrimination** is adverse treatment of an individual based on a protected characteristic, rather than individual merit. Examples of conduct that can constitute discrimination, if based on an individual's protected characteristic, include but are not limited to:

- Singling out or targeting an individual for different or less favorable treatment (e.g., more severe discipline, lower salary increase) because of their protected characteristic
- Failing or refusing to hire or admit an individual because of their protected characteristic
- Terminating an individual from employment or an educational program based on their protected characteristic.

**Harassment** is unwelcome verbal or physical behavior which is directed at a person based on a protected characteristic and which are sufficiently severe and/or pervasive to have the effect of unreasonably interfering with an individual's educational experience, working conditions, or living conditions by creating an intimidating, hostile, or offensive environment.



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Examples of conduct that can constitute harassment, if based on an individual's protected characteristic, include but are not limited to:

- Unwelcome jokes or comments about a legally protected characteristic (e.g., racial or ethnic jokes);
- Disparaging remarks to a person about a legally protected characteristic (e.g., negative or offensive remarks or jokes about a person's religion or religious garments);
- Displaying negative or offensive posters or pictures about a legally protected characteristic;
- Electronic communications, such as e-mail, text messaging, and internet use, that violate this Policy.

**Retaliation** is any attempt to seek retribution against an individual or group of individuals involved in filing a complaint or report under this Policy, filing an external complaint, participating in a disciplinary process, or opposing in a reasonable manner an action believed to constitute a violation of this Policy. Retaliation can take many forms, including abuse or violence, threats, and intimidation. Actions in response to a good faith report or response under this Policy are considered retaliatory if they have a materially adverse effect on the working, academic, or College/Institute-controlled environment of an individual; or if they hinder or prevent the individual from effectively carrying out their College/Institute responsibilities. Any individual or group of individuals can engage in retaliation and will be held accountable under this Policy.

## II. Options for Addressing Discrimination and/or Harassment

The College/Institute encourages everyone to report all incidents of discrimination and/or harassment, regardless of the offender's identity or position. When individuals feel that they have been subjected to discrimination and/or harassment or have observed discrimination or harassment of others, they have multiple options, including discussing their concern with their immediate supervisor, or their Campus Director.

The Campus Director oversees the College's/Institute's response to concerns of discrimination and/or harassment, and is made aware of all such concerns. Please contact the Campus Director at your campus to discuss any concerns or complaints.

In addition, the College/Institute encourages individuals who believe they are being subjected to such conduct to promptly advise the offender that his or her behavior is unwelcome and to request that it be discontinued. Often this action alone will resolve the problem. NWC/GCC/NCI recognizes, however, that an individual may prefer to pursue the matter through formal complaint procedures.

## III. Complaint Reporting, Investigation, and Resolution Involving Complaints Against Faculty or Staff Members

### 1. Complaint Reporting

When individuals feel that they have been subjected to discrimination and/or harassment, or have observed discrimination or harassment of others, they have multiple options, including discussing their concern with their immediate supervisor or their Campus Director.



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The written complaint should identify the parties involved, describe the harassing or discriminatory behavior, including when and where it occurred, and identify by name or description any witnesses and/or evidence. Written complaints should be treated as confidential, should only be provided to appropriate designated individual listed above, and should be provided directly to that individual.

## 2. Interim Steps

When appropriate, prior to or during the investigation, the College/Institute may take reasonable and appropriate interim steps to protect the safety and well-being of members of the College/Institute community, maintain the integrity of the investigative and/or resolution process, and deter retaliation.

## 3. Investigation Process

The purpose of the investigation is to gather facts relating to the incident(s) outlined in the written complaint and to determine whether it is more likely than not that the alleged behavior occurred and, if so, whether it constitutes discrimination and/or harassment. The investigator (or co- investigators, as necessary) will conduct a fact-finding inquiry that may include written statements, interviews, and any other sources of evidence the investigator deems appropriate. During the course of the investigation, the investigator may receive counsel from other parties as needed.

While the length of an investigation will depend on a variety of factors, including the nature and scope of the allegations, the number of parties and witnesses, and the availability of parties and witnesses, the investigator will seek to conclude the investigation within forty-five (45) business days of receipt of the complaint.

Note: NWC/GCC/NCI expect faculty, staff, and other members of the College/Institute community to cooperate fully in the investigation process. Any faculty or staff member who is the subject of or potential witness regarding a discrimination or harassment complaint and refuses to cooperate in an investigation is subject to discipline, up to and including termination of employment.

Note: Adversarial hearings, including confrontation, cross-examination by the parties, and active advocacy by attorneys or other outside advocates, are neither appropriate nor permitted during the investigation process.

## 4. Complaint Resolution

At the conclusion of the investigation, the investigator will prepare a report. The report will explain the scope of the investigation and whether any allegations in the complaint were substantiated. The report will be submitted to the appropriate parties as deemed necessary.

### *Finding of "No Violation" of the College/Institute's Policy on Discrimination and/or Harassment*

If there is a determination that the behavior investigated did not violate this Policy, both parties will be so informed. Neither party may appeal such a finding. If retaliatory behavior occurs after the issuance of this determination, either party may bring a complaint under this Policy.



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## *Finding of “Inappropriate Behavior Not Rising to the Level of a Violation” of the College/Institute’s Policy on Discrimination and/or Harassment*

There may be a determination that the behavior was inappropriate and unprofessional but did not rise to the level of violating this Policy. Such inappropriate behavior may merit discipline, ongoing monitoring, coaching, or other appropriate action. Neither party may appeal such a finding. If retaliatory behavior occurs after the issuance of this determination, either party may bring a complaint under this Policy.

## *Finding of “Violation” of the College/Institute’s Policy on Discrimination and/or Harassment*

If there is a determination that the behavior did violate this Policy, the Campus Director, in consultation with the appropriate Corporate Director, and /or Executive Committee member, the Human Resource Consultant, and/or legal counsel will determine the appropriate corrective actions to be taken, up to and including academic expulsion or employment termination. In addition, where appropriate, the Campus Director may implement measures to ensure that the person who filed the complaint is not subjected to further discrimination or harassment, and to remedy the effects of any discrimination or harassment that may have occurred. Remedial steps, where appropriate, are at the discretion of the College/Institute, may include, but are not limited to, counseling or training and separation of the parties. Sanctions against the perpetrator may include a written warning, probation with or without conditions, suspension, academic dismissal or expulsion, and demotion or termination of employment in accordance with College’s/Institute’s policy. The process for appealing such a finding is set forth in Section VII below.

The College/Institute’s ability to discipline an individual who is not an employee or student (such as a vendor or contractor) is limited by the degree of control, if any, that the College/Institute may have over such individual. Nonetheless, the College/Institute will seek to take appropriate action in response to violations of this Policy.

## **IV. Confidentiality**

Any allegation of discrimination or harassment brought to the attention of the College/Institute will be discreetly addressed. Investigations will be conducted in a confidential manner to the extent possible. However, the investigation of complaints may also require disclosure to the accused individual and to other witnesses for the purpose of gathering pertinent information. In such case, disclosures will be limited to the extent possible.

Individuals involved in investigations or disciplinary proceedings under this policy are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation. While discretion regarding the process is important, complainants and respondents are not restricted from discussing and sharing information with others who may support or assist them in presenting their case.

Medical and counseling records are privileged and confidential documents that parties will not be required to disclose.



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## V. Protection from Retaliation

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.

Retaliation can take many forms, including abuse or violence, threats, and intimidation. Actions in response to a good faith report or response under this policy are considered retaliatory if they have a materially adverse effect on the working, or educationally hinder or prevent the individual from effectively carrying out their College/Institute responsibilities. Any individual or group of individuals can engage in retaliation and will be held accountable under this policy.

Prior to the conclusion of an investigation and findings, a complaint of discrimination or harassment does not constitute proof of prohibited conduct. As such, the complaint shall not be taken into account during promotion, merit or other evaluation or review until a determination has been made that the College/Institute's Policy has been violated.

Complaints of retaliation should be reported as violations of this Policy. Retaliatory conduct may result in serious disciplinary sanctions, up to and including termination/expulsion from the student's program of study or employment.

## VI. Protection from Bad Faith Complaints

It is the responsibility of the College/Institute to balance the rights of all parties. Therefore, if the College/Institute's investigation reveals that the complaint is malicious or knowingly false, such charges will be dismissed and the person who filed the complaint may be subject to discipline, up to and including termination/expulsion from the student's program of study or employment.

