Subject: Prevention and Resolution of Bullying, Discrimination, and Harassment at Hood College

Purpose: To establish guidelines governing the prohibition of bullying, discrimination and harassment, and to provide for prompt and equitable resolution of complaints by members of the Hood College community alleging discrimination carried out by employees, students or other third parties, in accordance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 20 U.S.C. § 794, and Title IX of the Education Amendments of 1972 (Title IX), 20 U.S. C. § 1681, in accordance with their implementing regulations, at 34 C.F.R. §§ 104.7(b) and 106.8(b). Additional statutory authorities include: Title VI 42 U.S.C. § 2000d; Title VII of the Civil Rights Act of 1964, as amended. 42 U.S.C. § 2000e; Age Discrimination in Employment Act of 1967 29U.S.C. §623; Md. Code, Art. 49B; Frederick County Code, Sec. 1-2-93.

Definitions:

Bullying: A reckless or intentional attempt, whether by a single individual or a group, to demean, intimidate, or abuse another individual, or to create a hostile or offensive environment. Bullying is behavior which may include verbal, physical, or written conduct or intentional electronic communication, and may involve threats, assault, stalking, malicious destruction of, or tampering with, the personal property of the victim, or other methods of coercion. It may occur repeatedly over time, and is often characterized by an imbalance of power between the aggressor and the victim. Bullying creates a hostile environment by interfering with an individual’s opportunities, performance, or physical or psychological well-being. It is motivated by an actual or perceived personal characteristic (such as race, national origin, marital status, sex, sexual orientation, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability), and can substantially disrupt the orderly functioning of an institution.

Discrimination: Treating an individual differently from another individual with respect to the terms and conditions of her/his employment or student status, because of that individual’s sex, race, color, sexual orientation, religion, age, disability, national origin or any classification currently protected under federal, state or local anti-discrimination statutes.

Harassment: Harassment is an attempt to demean, intimidate, or abuse another individual, or to create a hostile or offensive environment on the basis of another’s sex, race, color, sexual orientation, religion, age, disability, national origin, or any classification currently protected under federal, state or local anti-discrimination statutes.

Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal, written, or physical conduct of a sexual nature that takes place under any of the following circumstances:

a) When submission to such conduct is made, explicitly or implicitly, a term or condition of an individual’s employment or participation in an education program;
b) When submission to or rejection of such conduct by an individual is used by the offender as the basis for making personnel or educational decisions affecting the individual subject to sexual advances; or

c) When such conduct has the purpose or effect of unreasonably interfering with the individual’s work and/or academic performance or creating an intimidating, hostile, or offensive work or educational environment, or that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the College's programs, based on sex.

The following are examples of sexual harassment:

- Unwelcome sexual advances. This includes patting, pinching, brushing up against, hugging, kissing, fondling, or any other similar physical contact considered unwelcome by another individual;

- Requests or demands for sexual favors. This includes subtle or blatant pressures or requests for sexual favors accompanied by an implied or stated promise of preferential treatment or negative consequence concerning one’s employment status, or educational evaluation or record;

- Verbal abuse that is sexually oriented and considered unwelcome by another individual. This includes commenting about an individual's body or appearance where such comments are beyond mere courtesy; telling “dirty jokes” that are clearly unwelcome and considered offensive by others or any other tasteless, sexually oriented comments, innuendos, or actions that offend others;

- Engaging in sexually oriented conduct that would unreasonably interfere with another’s academic or work performance. This includes extending unwanted sexual attention to someone that reduces his/her personal productivity or time available to work at assigned tasks; or

- Creating a work or learning environment that is intimidating, hostile or offensive because of unwelcome sexually oriented conversations, suggestions, requests, demands, or physical contact.

Academic Freedom: The academic setting is distinct from the workplace in that wide latitude of professional judgment is allowed in determining the appropriate content and presentation of academic material.

Hood College is committed to the principles of free inquiry and free expression. The College's policy against bullying, discrimination, harassment, and retaliation is not intended to stifle this freedom, nor will it be permitted to do so. However, prohibited bullying, discrimination, harassment, and retaliation are neither legally protected expression nor the proper exercise of academic freedom, and such conduct is incompatible with the values of Hood College.

Complainant: Any person from the Hood community (including others such as contractors, vendors, and volunteers) who believes she/he may have been the victim of bullying, harassment or
discrimination, or who believes she/he may have witnessed such behavior, and who has opted to bring a complaint regarding the behavior to College officials.

**Respondent:** Any person from the Hood community (including others such as contractors, vendors, and volunteers) who is named by a complainant as the perpetrator of possible instances of bullying, harassment or discrimination that have been brought to the attention of Hood College officials.

**The Parties:** The Complainant and the Respondent in a complaint of possible bullying, harassment or discrimination that has been brought to the attention of Hood College officials.

**Responsible College Official:** Any Hood College official who is charged with receiving, investigating, and/or referring to others, complaints of possible bullying, harassment or discrimination. These may include the several Vice Presidents (excepting the Provost), the Executive Director for Human Resources, the Ombudsperson, and the Dean of the Chapel.

**General Policy:**

Hood College affirms the principle that its faculty, staff, and students have the right to be free from bullying, discrimination and harassment by any member of the Hood College community, or by others who conduct business with the College or in any other way interact with it in an educational or business context, either on or off campus. The College is committed to the creation and maintenance of an academic and work environment in which all persons who participate in College programs and activities can do so in an atmosphere free from all forms of bullying, discrimination and harassment on the basis of the characteristics described above.

There will be no adverse action against any individual for reporting an incident of bullying, discrimination or harassment, or for participating in, or cooperating with, an investigation of an alleged incident.

Any individual who believes that she/he has been subject to bullying, discrimination or harassment, or who has witnessed what he/she believes to be bullying, discrimination, or harassment, should report such conduct promptly, using the complaint procedures outlined below. All complaints of bullying, discrimination or harassment will be investigated as appropriate. Confidentiality will be preserved consistent with applicable laws and the College’s responsibility to investigate and address such complaints. In this policy, the College provides for adequate, reliable, and impartial investigation of complaints (including protection against conflicts of interest), with the opportunity to present witnesses and other evidence.

The College will take whatever action may be needed to prevent, correct, and, if necessary, discipline, behavior which violates this policy. Any individual, who is determined to have committed acts of bullying, discrimination or harassment or retaliation, will be subject to appropriate disciplinary action, as described below. The Provost and the Executive Director of Human Resources will monitor the process and outcomes, as necessary, and will see that action is taken to prevent discriminatory or retaliatory effects on the complainant and others, as, necessary and appropriate.

It is the responsibility of every supervisor and manager to recognize acts of bullying, discrimination and harassment and to take necessary action to ensure that such instances are addressed swiftly,
fairly, and effectively, including reporting such incidents to the appropriate College officials designated under this policy. Any supervisor or manager who receives a complaint of bullying, discrimination or harassment will be cognizant of and responsible for, effectively implementing the complaint resolution procedures established in this policy. Failure of a supervisor or manager to comply with these requirements will be treated as a failure to fulfill supervisory duties and may result in counseling and/or discipline as appropriate.

The College recognizes and will uphold its responsibility to inform its constituencies, including students, faculty and staff, about this policy and will provide appropriate information and/or training in recognizing and addressing bullying, discrimination and harassment to all members of the College community on a regular basis. Such information and/or training will be included in, but will not be limited to, orientations for employees and students, an annual informational letter, College web pages, and periodic or one-time training programs, as appropriate.

Complaints of bullying, discrimination and harassment are treated as very serious matters by the College. Accordingly, anyone who files a complaint which is knowingly false is subject to discipline. This provision is not intended to discourage, in any way, the reporting of complaints by individuals who believe they are the victims of bullying, discrimination or harassment.

Complainants and respondents will receive formal notice of the outcome of any investigation and/or finding, and of any action to be taken.

It is the position of Hood College that sexual assault is an egregious form of sexual harassment. For the full text of Hood's sexual assault policy, see: www.hood.edu/campuslife/safety.cfm?pid=safety_sexualAssault.html.

Application of Policy:

The College has considered the rights and concerns of both the complainant and respondent in establishing the following procedures for applying this policy.

I. Faculty: This policy applies to all bullying, discrimination or harassment incidents involving College faculty, as defined in the Faculty Code (tenured, probationary tenure track, and special appointments), against other faculty, staff, students, or others. If, following an investigation, the responsible College official determines that a grievance board hearing involving a faculty member is warranted, the Faculty Board of Review or appropriate subcommittee of the Faculty Board of Review, as provided in the Faculty Code, will hear the case. If the Faculty Board of Review determines at the faculty member has committed bullying, harassment or discrimination, the Provost, or the Provost’s designee in consultation with the Faculty Personnel Committee (which recommends sanctions), will proceed with appropriate discipline, as provided in the Faculty Code under sections 4.5 Dismissal for cause, and 4.6.1 Sanctions for cause. The respondent may appeal the decision to the President. Adjunct faculty are provided the same protections as College staff.
II. **Staff:** This policy applies to all bullying, discrimination or harassment incidents involving College employees against other staff, faculty, students, or others. Depending upon the severity of the offense, any College employee who violates this policy will be subject to appropriate disciplinary action, as outlined in this document, including, but not limited to, oral or written reprimand, reassignment, demotion, denial of performance salary increase, suspension with or without pay, and/or termination.

III. **Students:** This policy applies to all bullying, discrimination or harassment incidents involving College students against other students, faculty, staff, or others. Depending upon the severity of the offense, any student who violates this policy will be subject to appropriate disciplinary action, as outlined in this document, including, but not limited to, a conference to discuss the offending behavior and its consequences, a letter placed in the student’s file, denial of student privileges, suspension, and/or expulsion from school.

IV. **Others:** This policy applies to all bullying, discrimination or harassment incidents involving others (including, but not limited to, contractors, vendors, and volunteers) against faculty, staff, students, or others. In accordance with the operating procedures described below and dependent upon the level of control that the College has over the respondent, the College will take appropriate action against others in the College community who engage in acts of bullying, discrimination or harassment whether on or off campus. The appropriate administrative officer and/or the Executive Director of Human Resources will work with the respondent’s employer, or, in the case of a volunteer, the individual him/herself, to effect a resolution.

**Operating Bodies:**

I. **Ombudsperson:** The President of Hood College will appoint a staff member to the position of Ombudsperson, and this position will be clearly identified to the College community. The Ombudsperson will receive such training in, and education about, policies and practices designed to eliminate bullying, discrimination and harassment as is necessary to be well prepared for her/his responsibilities. The Ombudsperson will disseminate information to the College community regarding this bullying, discrimination and harassment policy, what constitutes bullying, discrimination and/or harassment, what the individual can do to address questions or concerns, and where to go for help, and will coordinate educational programs on such topics for the College at large. The Ombudsperson will report annually to the President regarding campus bullying, harassment and discrimination complaint trends.

a) Any member of the College community may ask general questions about procedures or seek advice from the Ombudsperson.

b) Any person who speaks with the Ombudsperson regarding questions of bullying, discrimination and harassment will be apprised of the role of the Ombudsperson:

   - The Ombudsperson can consult with any individual or group in an informational capacity, providing general education as to the laws and College policy in this area.

   - The Ombudsperson can offer the following services to any individual who feels that she/he has been subject to bullying, discrimination or harassment:
1) The Ombudsperson provides general information regarding the College’s bullying, discrimination and harassment policies.

2) The Ombudsperson initially discusses what actions the complainant is seeking in response to the alleged bullying, discrimination or harassment.

3) The Ombudsperson explains the avenues for informal and formal action, including a description of the complaint procedure described below.

4) The Ombudsperson should advise the complainant that the College has a responsibility to investigate bullying, discrimination and harassment complaints and to take steps to correct the situation, and that accordingly, any information provided by the complainant may be referred to the responsible College official to initiate the investigation, thereby potentially compromising the confidentiality of information provided by the complainant.

5) The Ombudsperson advises the complainant that confidentiality will be preserved consistent with applicable laws and the College’s responsibility to investigate and address such complaints. In all instances, however, the Ombudsperson will inform the Executive Director of Human Resources or her designee of the complaint; the Executive Director of Human Resources or her designee reserves the right to conduct an inquiry or investigation, as appropriate.

II. **The Dean of the Chapel** is vested with the same operating portfolio as the Ombudsperson (see I. Ombudsperson, above) when she/he receives complaints of bullying, harassment or discrimination, except that a) she/he may refer the matter to the Ombudsperson, and b) she or he will report annual trends to the Ombudsperson for inclusion in her annual report to the President (and is therefore is not required to report directly to the President).

III. **The Executive Director of Human Resources** may receive complaints of bullying, harassment or discrimination, and may refer them to the Ombudsperson or Dean of the Chapel in the event that the complainant opts for an informal resolution procedure; the Executive Director of Human Resources is responsible for coordinating the Administrative Response phase; he/she will coordinate, in instances of a formal complaint procedure, the Investigation Phase, and, as necessary, will refer formal complaints to the appropriate grievance board, all as set out in this policy, below.

IV. **Other College resource persons**, including, but not limited to, supervisors, employees of the Counseling Center, Residence Life Area Coordinators, and Resident Assistants, who receive complaints of possible bullying, harassment or discrimination, will refer such complaints to either the Ombudsperson or the Dean of the Chapel.

V. **Grievance Boards**: The Vice President for Finance will appoint staff employees, the Vice President for Student Life will appoint students, and the faculty will elect faculty members, to a standing College Grievance Board to receive complaints by faculty, staff, students and others, of bullying, discrimination and harassment. Faculty will elect faculty members to a standing
Faculty Board of Review, which will receive complaints of bullying, discrimination and harassment against faculty members. All members of the College community are expected to cooperate fully with both grievance boards and with College officials.

**a) College Grievance Board:**

- The College Grievance Board will be composed of six (6) voting members: two faculty members elected by the faculty, two administrators appointed by the Vice President for Finance, and two students appointed by the Vice President for Student Life. In addition, two alternates will be elected or appointed from each of the above-named constituencies, as appropriate. Both the faculty’s selections and the Vice Presidents’ appointments will be guided by considerations of continuity, experience, sensitivity to the concerns of faculty, staff, and students, and respect for the diversity of the College community. Recommendations for College Grievance Board membership may be made by any member of the Hood community; in addition, the Vice President for Finance and the Vice President for Student Life may solicit recommendations from appropriate representative groups.

- The Vice President for Finance and the Vice President for Student Life may seek the advice of the existing College Grievance Board on new appointments. All members will serve at least one two-year term. Normally, service will be limited to two (2) two-year terms.

- The Vice President for Finance will appoint the chairperson of the College Grievance Board. The chairperson will act as convener of the College Grievance Board and will facilitate administrative operations and equitably assign College Grievance Board members responsibilities for Board activity.

- The primary responsibility of the College Grievance Board is to promptly investigate and review complaints of bullying, discrimination and harassment filed against staff, students, and others, and to report its finding to the Provost or the Provost's designee. The College Grievance Board generally will be available to consult with the College community on the issue of discrimination and harassment. In addition, the College Grievance Board will function as a source of consultation and support to the Ombudsperson and the Dean of the Chapel.

**b) Faculty Board of Review (FBR) and the Faculty Personnel Committee (FPC):**

- The Faculty Board of Review will be composed of six (6) voting faculty members, elected by the faculty. It will review complaints in accordance with the procedures outlined in this policy. In implementing this Policy, a primary responsibility of the Faculty Board of Review is to promptly consider and adjudicate complaints of bullying, discrimination and harassment filed against faculty members, and to determine recommended findings. They will refer their recommended findings to the Provost.
- The members of the Faculty Board of Review will elect the chairperson of the Faculty Board of Review. The chairperson will act as convener of the Faculty Board of Review and will facilitate administrative operations and equitably assign Faculty Board of Review members responsibilities for Board activity.

- The Faculty Personnel Committee will determine and recommend appropriate discipline or sanctions in cases where faculty members are the respondents and the FBR’s findings are that bullying, discrimination, and/or harassment have taken place. They will consult with the Provost and make their recommendations as she/he develops an appropriate resolution.

- The Faculty Board of Review generally will be available to consult with the College community on the issue of bullying, discrimination and harassment. In addition, the Faculty Board of Review will function as a source of consultation and support to the Ombudsperson and the Dean of the Chapel.

**Rights of the Parties:**

I. At each step of the process, whether an informal or formal procedure is chosen, both the complainant and the respondent have the right to support and counsel at their discretion.

II. The complainant has the right to file a grievance, to present supporting evidence, and to reply to the respondent’s information at each step of the process.

III. The respondent has the right to be informed of all charges and of any evidence against him/her used to evaluate those charges, to bring evidence, and to reply to the complainant’s information at each step of the process.

IV. The parties have the right to be protected against conflict of interest by decision makers at all steps of the process as set forth below. A conflict of interest exists when a decision maker in a grievance procedure has a personal or professional relationship with any of the parties that could in any way compromise the process or present the appearance of compromise.

   a) Either the complainant or the respondent, when made aware of the composition of the grievance board, may request that a member (or members) of the board recuse him/herself if she or he feels there may be a conflict of interest.

   b) It is incumbent upon a grievance board member, when she or he learns the identities of the complainant and the respondent, to recuse him/herself if he or she feels there may be a conflict of interest.

   c) When a grievance board member has recused her/himself, she/he is obligated to maintain confidentiality regarding the complaint.
Operating Procedures:

I. **Intake or Complaint Phase:** Complaints of bullying, harassment or discrimination should be brought to the College as soon as possible after the most recent instance of possible bullying, harassment or discrimination, but might not be heard if brought more than 180 days afterward, unless there are immediate and compelling reasons to do so. Any member of the College community who believes that she/he has been the victim of bullying, discrimination or harassment, or who believes she/he has witnessed such behavior, should report this belief to other College resource persons as outlined above, who will then make appropriate referrals; or, to the Ombudsperson or the Dean of the Chapel, who will receive the complaint and assist in the resolution processes described below; or, to a responsible College official, who, as appropriate, may also make referrals to the Ombudsperson or Dean of the Chapel.

   a) The “**responsible College official**” is designated as follows:

      - **For students:** the Executive Director of Human Resources or the Vice President for Student Life and Dean of Students.

      - **For staff:** the Executive Director of Human Resources or the Vice President for Finance.

      - **For faculty:** the Executive Director of Human Resources or the faculty member’s Department Chair.

      - **For others:** the Executive Director of Human Resources or the Vice President for Finance.

   b) **Who may bring a complaint:** Any member of the College community who believes that she/he has been the victim of bullying, discrimination or harassment by a student, staff member, faculty member, or other individual doing business with the College or engaging in College-sponsored activities, or any member of either group who believes she/he has witnessed such proscribed behavior, may bring the matter to the person designated by the College to handle such complaints, including the Ombudsperson, the Dean of the Chapel, and the responsible College official, as defined above. Complaints received by other College officials will be referred to one of these persons.

   c) **Anonymous complaints:** If information about an alleged case of bullying, discrimination or harassment is received from a third party (such as from a witness to an incident or in an anonymous letter), the responsible College official will take appropriate action considering the source and nature of the information, the seriousness of the alleged incident, the specificity of the information, the objectivity and credibility of the source of the report, whether any individuals can be identified who were subjected to the alleged conduct, and, if so, whether those individuals want to pursue the matter.

   d) **Responsibility to notify the Executive Director of Human Resources:** In each instance of a complaint of bullying, harassment or discrimination, regardless of whether the complaint will be handled through a formal or informal process, the responsible College
official must inform the Executive Director of Human Resources or her designee (unless the Executive Director of Human Resources is acting also as the responsible College official) of the complaint. The Executive Director of Human Resources or her designee reserves the right to conduct an inquiry or investigation, as appropriate.

e) Confidentiality: If a complainant requests that her/his name not be revealed, the responsible College official should inform the complainant that the request may limit the College’s ability to respond. If the complainant continues to ask that her/his name not be revealed, the responsible official should take all reasonable steps to effectuate an investigation and response to the complaint consistent with that request, as long as doing so does not preclude the College from responding effectively to the behavior and preventing further such behavior toward others.

f) Determination of the procedure to be employed in resolving complaints: The Ombudsperson, the Dean of the Chapel, or the responsible College official, in the initial interview with the complainant, will discuss what actions the complainant is seeking in response to the alleged bullying, discrimination or harassment. The interviewer explains the avenues for informal and formal action, and will outline the complaint procedures described below. Based upon that information, the complainant may opt for either procedure. At this point, any necessary referrals (such as, to the Ombudsperson from the Vice President for Student Life) are made, and the chosen procedure will begin, as outlined below. The complainant, at his or her discretion, may opt, at any time during the informal process, to begin the formal procedure.

- Written statement of the complaint: After an initial meeting with the responsible College official, the complainant should submit a written statement to the responsible official. This written statement should contain the following information: date(s), specifics of incident(s), and names of witnesses, to be used in the Investigation Phase, in the event that the formal procedure is chosen. The responsible College official will inform the respondent of the allegation and of the identity of the complainant. The responsible official will give a written statement of the complaint to both parties. If the complainant has failed to provide a written statement, the responsible official may proceed in accordance with the procedure below after summarizing, in writing, the information provided by the complainant, including the date(s), specifics of incident(s), and names of witnesses. This summary will be signed by the complainant.

- The written statement or summary of the complaint will be provided to the respondent. Every effort will be made to protect the complainant from adverse acts committed in retaliation for having made the complaint.

II. Administrative Response Phase: If the complaint involves what may be bullying, harassment, a physical threat, or the violation of a criminal statute, the person receiving the complaint will, with proper regard for the need for timeliness given the nature of the complaint, promptly refer the matter to the responsible College official and/or external authorities (which may include law enforcement or other bodies external to the College) and other College officials, as necessary, to
see that prompt and reasonable steps are taken (including, as appropriate, interim steps) to address threats, to respond to possible violations of criminal statutes, and, in the case of bullying or illegal harassment, to address any ongoing bullying, harassment or possible hostile environment, pending further review as provided in this policy and as appropriate, regardless of whether the complainant objects to the harassment or bullying, or asks the College to act.

III. Determination of Complaint Resolution Process:

a) Informal Complaint Resolution Process: The complainant, in consultation with the Ombudsperson or the Dean of the Chapel will determine an appropriate approach to resolving the complaint. Normally, a resolution strategy should be determined and implemented within sixty (60) business days of receipt of the complaint. In all cases, the College will work to insure an adequate, reliable, and impartial investigation and resolution of complaints. Informal approaches may include, but are not limited to:

- **Direct communication between the complainant and the respondent.** The complainant should make it clear to the respondent that he/she considers the behavior in question to be offensive. The complainant may take this step with or without the assistance of the Ombudsperson or the Dean of the Chapel;

- **Mediation by the Ombudsperson or Dean of the Chapel,** through interviewing the parties individually or jointly, to resolve the situation on an informal basis. (It should be noted that since this is an informal proceeding, the Ombudsperson’s responsibility does not include determination of truth or blame in a situation, but emphasizes education, the resolution of misunderstanding between the parties, and relief from the bullying, harassment or discriminatory conduct which is the subject of the complaint). After three months, or other appropriate period as determined by the mediator, the mediator will follow up with the parties to determine the success of the agreed-upon resolution.

- **Other procedural responsibilities** of the Ombudsperson and Dean of the Chapel in the informal resolution procedure include:

  1. They will advise the complainant that the College has a responsibility to investigate bullying, discrimination and harassment complaints and to take steps to correct the situation, and that accordingly, any information provided by the complainant may be referred to the responsible College official to initiate the investigation, thereby potentially compromising the confidentiality of information provided by the complainant;

  2. They advise the complainant that confidentiality will be preserved consistent with applicable laws and the College’s responsibility to investigate and address such complaints. In all instances, however, they will inform the Executive Director of Human Resources or her designee of the complaint; the Executive Director of Human Resources or her designee reserves the right to conduct an inquiry or investigation, as appropriate;
3. They should initiate whatever steps they deem appropriate to effect an informal resolution of the complaint acceptable to both parties. The complainant has the right to end the informal process at any time and to begin the formal complaint process before the responsible College official;

4. They should maintain a written record of all contacts, activities, and outcomes, using the Documenting Bullying, Harassment and Discrimination Complaint/Resolutions Form, and will notify the parties of outcomes and resolutions as appropriate.

5. They do not have the authority to apply any direct sanctions or disciplinary action for violation of this policy. If they feel such actions may be warranted, they should refer the matter to the Executive Director of Human Resources or the Vice President for Finance for formal inquiry and possible action.

- If informal mediation, as mentioned above, is not successful, a formal complaint may be made to the appropriate responsible College official by the complainant, the respondent, the Ombudsperson, or the Dean of the Chapel.

b) **Formal Complaint Resolution Process:** In all formal resolution proceedings, the College will work to insure an adequate, reliable, and impartial investigation and resolution of complaints, through the use of appropriate training for responsible College officials and grievance board members, the multi-level review structure, the pre-appointment of grievance boards, and, as appropriate, the appeal process.

The formal process will be documented at each step in accordance with the Documenting Bullying, Harassment and Discrimination Complaint/Resolutions Form.

IV. **Notification to the appropriate Grievance Board:** Regardless of whether the complainant has initiated or participated in the informal procedure, she or he may initiate the formal resolution procedure at any time within the time frame for filing complaints. **Promptly after the complainant opts for the formal complaint resolution procedure,** the responsible College official will notify the chairperson of the appropriate grievance board (the Faculty Board of Review in cases where a tenured, probationary tenure track, special appointment faculty member is named as the respondent, and the College Grievance Board in cases where a staff member, student, or other person is named as the respondent) of the complaint and will transmit the written statement (or, in cases where no written statement was provided by the complainant, the written summary) and any other materials provided by the complainant to the chairperson of the appropriate grievance board.

V. **Investigation Phase:** In the event that the case is not resolved at the Administrative Response Phase, the Responsible College Official, as outlined in Definitions, above, may, normally, **within ten (10) business days of receipt of the complaint,** conduct (or direct) an investigation, as appropriate, into the particular circumstances. At this point the parties will be provided the opportunity to submit relevant evidence and supporting documentation. The responsible College
official may also refer the complaint to the Executive Director of Human Resources, who may then involve Campus Safety as necessary in making a determination as to whether there is evidence suggesting that bullying, harassment or discrimination has occurred and, thus, whether it is suitable for the appropriate grievance board to conduct a hearing. If so, the Executive Director of Human Resources or her designee will refer the matter to the grievance board for a finding, as set out below.

VI. Hearing and Findings Phase: Normally within thirty (30) business days of receipt of the complaint, it will be heard by the appropriate grievance board. The procedures below apply to both the College Grievance Board and the Faculty Board of Review.

a) If the Executive Director of Human Resources concludes that the complaint merits consideration by a grievance board, the parties involved will be identified to the appropriate grievance board. That grievance board will determine if, in their estimation, the facts of the case support the need for a hearing. If so, they will determine whether a) bullying, harassment and/or discrimination did occur, or b) whether bullying, harassment and/or discrimination did not occur, and will notify the parties, and appropriate responsible College officials of their finding.

b) At this point, a grievance board member who identifies a potential conflict of interest will be required to withdraw from consideration of the complaint. In the event of a recusal, the appropriate alternate will serve in his/her stead.

c) Grievance board members will maintain confidentiality to the extent possible during the hearing, and will not discuss the complaint before or after the hearing, nor will they discuss it among themselves except during grievance board proceedings; they may discuss the complaint with the responsible College official(s) on a need-to-know basis, but will maintain confidentiality to the extent possible.

d) The grievance board may conduct its inquiry in the manner it deems appropriate, within the guidelines set out in this policy. Absent extraordinary circumstances, the investigation should, at the least, include interviews of the complainant and respondent, which should be conducted as soon as possible. Each party will be given the opportunity to present witnesses and other evidence and to be accompanied by an individual who can provide support and counsel at his or her discretion; however, the counsel may only act in a consultative capacity and may not speak for the party he or she is assisting.

e) It is strongly advised that all six members of the grievance board be present at these interviews, but no fewer than four members should be in attendance. The purpose of these interviews is to clarify what incidents occurred and what views each interviewee holds. The respondent will be informed of the name of the complainant as well as the substance of the complaint. The grievance board may use these interviews to identify additional witnesses.

f) It may be necessary for members of the grievance board to interview persons other than the complainant and the respondent. These interviews should be conducted by at least two
grievance board members. The interviews must be coordinated in advance with the chair of the grievance board. When the appropriate information and views are collected, the members of the grievance board will report to the full grievance board.

g) It may be necessary for the grievance board to request that the Provost grant it additional time in which to complete its process. In all cases, the grievance board must make a good faith effort to make its inquiry and to render a finding in a timely fashion, but should it find, for example, that a witness is unavailable for a short time or that additional evidence has been identified that must be investigated, the Provost may opt to grant an extension. The chair of the grievance board will notify the parties in that event.

h) Before the grievance board makes its final recommendation, the complainant and the respondent will each be given a written summary of the evidence that will be used by the grievance board in making its finding, and they also will be given the opportunity to make final statements in response to that summary. The evidence will be kept on file in the Human Resources Department for three years and can be viewed by the parties upon request.

- The full circumstances of the situation will be considered in the investigation of possible bullying, discrimination or harassment incidents.

- In determining whether the alleged conduct constitutes bullying, discrimination, harassment, or otherwise inappropriate conduct, the grievance board will consider the record of the incident as a whole and the totality of the circumstances, including the context in which the alleged incidents occurred.

i) After reviewing the information, the grievance board will report its finding. The finding will be either that:

- The information gathered does not indicate that bullying, discrimination, harassment, or other inappropriate conduct took place, or,

- The information gathered does indicate that bullying, discrimination, harassment, or other inappropriate conduct took place.

j) The College Grievance Board’s finding will be determined by a majority vote of the board members. If the grievance board is evenly split and is unable to reach a decision as to whether or not bullying, discrimination, harassment, or other inappropriate conduct took place, the chair of the grievance board will call upon an unseated grievance board alternate from the constituency of the respondent. In the case of the Faculty Board of Review, an alternate will be selected from the faculty at large to review the notes of the proceedings and any other evidence, and to cast the deciding vote.

k) Based upon the finding of the College Grievance Board, the Provost, or designee will determine the resolution, including any sanctions or discipline. However, the Provost has the option to reject the finding of the College Grievance Board based upon her review of
the evidence, and then to determine a suitable resolution. The Provost or designee, as appropriate, may consult with other College officials, in considering her/his decision.

l) In cases where the respondent is a tenured, probationary tenure track, or special appointment member of the faculty:

- The Faculty Board of Review will send its finding of whether or not harassment or discrimination occurred to the Provost who will determine the resolution of the complaint, and will consult with the Faculty Personnel Committee (FPC) to determine any discipline or sanctions, as appropriate. If termination for cause is the recommended sanction, the Provost will notify the President.

- The Provost may reject the determination of the Faculty Board of Review, and must state her reasons for doing so in writing to the faculty member and the FBR, and also must provide an opportunity for responses from them before implementing her resolution. In cases where the resolution results from a finding that bullying, harassment, and/or discrimination did occur, the Provost will proceed in consulting with the FPC to determine discipline or sanctions.

- In a case of the sanction of termination for cause, the President will be notified of such by the Provost. If he is in concurrence with that recommendation, he will send the recommendation to the Board of Trustees, who will render the final decision regarding the sanction.

- The Provost and President, as appropriate, may consult with each other or other College officials, in considering their decisions.

VII. Notice to Parties Phase: Normally within ten (10) business days after the completion of the Hearing and Findings Phase, the Provost or designee will inform the grievance board and the parties of the final resolution of complaints referred to her/him/them.

VIII. Actions Phase:

a) Discipline: Normally within ten (10) business days of the completion of the Notice Phase, if a finding of bullying, harassment or discrimination is reported by the grievance board to the Provost, she or her designee will proceed with appropriate discipline and/or corrective action. The Provost’s decision regarding discipline for staff, students or faculty may be appealed to the President or the President’s designee, and will be considered in accordance with the standards outlined below. The Provost will be authorized to take actions he/she deems appropriate against persons who are not College students, staff, or faculty, and for whom there is no opportunity for review. The Provost will inform both parties of the action(s) to be taken to equitably resolve the complaint and of any actions to be taken to prevent recurrence.
IX. **Appeal Phase**

a) **Appeal:** *Normally within ten (10) business days of the completion of the Actions Phase,* in the event that either of the parties disagrees with the finding of the grievance board and/or the Provost’s determination (or the Provost’s determination in consultation with the Faculty Personnel Committee, for faculty respondents) of appropriate resolution and/or discipline and sanctions, he or she may appeal the decision to the President of the College, providing the appeal meets at least one of the standards outlined below.

- **Standard for appeal:** Either party, *normally within ten (10) business days of notification of the finding, resolution, and/or discipline and sanctions,* may present a written request for a review of the finding, resolution, and/or discipline and sanctions, based upon one or more of the standards outlined below. The appellant party should include in the appeal any information that substantiates his or her belief that the appeal is justified according to the standards.

  1. One or more procedural errors occurred. Examples:
     - A grievance board member should have recused himself/herself but did not.
     - Witnesses were inappropriately disallowed.
     - The finding is clearly at odds with the evidence presented.

  2. New information that was not previously available or known has come to light, which might include additional witnesses or additional evidence.

  3. The appellant has reason to believe that the sanction or discipline is inappropriate.

b) **Hearing of appeal by the President of the College:**

- If, upon reviewing the written appeal, the President determines that the information provided therein indicates that the appeal is warranted according to one or more of the standards, and, thus, that there is a compelling reason to reverse or modify a grievance board finding, or the Provost’s resolution, and/or disciplinary action and sanctions, he will consult with the Provost or other College officials and/or other parties as appropriate to resolve the appeal issue. The complainant and the respondent, as well as the chair of the reporting grievance board, will be notified of any changes to the finding, resolution, disciplinary actions or sanctions, resulting from the appeal.

- If, upon reviewing the written appeal, the President determines that the information provided therein indicates that the appeal is not warranted according to one or more of the standards, he will notify both parties, as well as the chair of the reporting grievance board, that the original finding, resolution, and/or disciplinary action and sanctions will stand.

- Notwithstanding the absence of an appeal, the President may, at her/his discretion and at her/his own initiative, review the procedures and evidence in accordance
with the standards for appeal set out above, and modify or reverse the findings, resolution and/or discipline and sanctions.

- When a written appeal is received by the President, he/she will notify the both parties of the outcome in writing within 10 business days of receipt of the appeal.

c) Request for Review by the Board of Trustees, where the respondent is a member of the Faculty (tenured, probationary tenure track, special appointments): As provided in the Faculty Code, 4.6.5, in the case of the sanction of termination for cause, the faculty respondent may request that the Board of Trustees review the record of the case concomitant with its responsibility to consider a Presidential recommendation of termination.

X. Variations in Processing of Complaints: The steps outlined above may be modified on a case-by-case basis as appropriate, including when the complainant asks not to be identified until a later date (for example, until the end of a course, or after an examination, or after annual contracts are issued). In all cases, the complainant will not be subject to retaliation by the respondent, however, as much information as possible, will be shared with the respondent to enable him/her to answer the complaint.

a) In general, a request to delay personal identification and action upon such a complaint may be honored, and the complaint may be held until the specific date requested by the complainant, where such a request is deemed not inconsistent with the College’s obligation to investigate and take corrective action as appropriate and with regard for due process.

b) It is recommended that action be taken within 180 days following receipt of a formal complaint by the responsible official. Complainants should be advised that a long time lapse before beginning the investigation could limit the College’s ability to respond and could impair the investigation of the complaint, and that complaints lodged more than 180 days after the incident may not be heard unless there are immediate and compelling reasons to do so.

XI. Prohibition against Retaliation: There will be no adverse action against any individual for reporting an incident of bullying, discrimination or harassment, or for participating in or cooperating with an investigation of an alleged incident. Any violation of this prohibition against retaliation will be treated as a separate incident under these procedures, although it may be addressed in the same investigation.

XII. Additional Information: The President will, from time to time, consult with the Ombudsperson and/or responsible College officials on general policy and procedural issues related to bullying, discrimination and harassment and may receive from the Ombudsperson and/or responsible officials, recommendations on such issues, including the prevention of such incidents of discrimination and harassment. Grievances and grievance outcomes will be used to inform administrators of the need for operational changes.