

SUNY Cortland

the online guide



SITE SEARCH

Quick Links

Academic Programs
• Undergraduate
• Graduate

Admissions
• Undergraduate
• Graduate

Administrative Offices

Alumni, Parents
and Friends

Athletics

Campus News

Community and
Visitors

Directories

Faculty/Staff
Resources

Library

Student Life

Make a Gift to
SUNY Cortland

Part Nine: The Affirmative Action Program

Chapter 940: Equal Employment Plan for Affirmative Action

Chapter 950: Discrimination Complaint Procedures for Review of Allegations of Discrimination — State University of New York

Chapter 960: Procedures for Dealing with Sexual Harassment

Chapter 970: Procedures for Dealing with Charges of Discrimination or Harassment in Employment Based on Sexual Orientation

CHAPTER 940: Equal Employment Plan for Affirmative Action

A full description of the College's Affirmative Action Program is available in the Affirmative Action Office. What follows are excerpts. Please refer to the complete description.

940.01 Statement of Policy and Intent of Affirmative Action Program

940.02 Implementation of Policy

940.03 Responsibilities and Authority for Implementing the College's Affirmative Action Program

940.04 Recruitment and Hiring

940.05 Records, Reports and Monitoring

940.06 Promotions and Salaries

940.07 Complaint

940.08 Terminations

940.09 Part-time Appointments

940.10 Waiver of Search

940.01 STATEMENT OF POLICY AND INTENT OF AFFIRMATIVE ACTION PROGRAM

It is the policy of the State University of New York that all employment within the University system shall be free of any discrimination on the basis of race, creed, sex, or any other inappropriate criteria. In filling any opening on the staff, the candidate shall be selected who is best qualified to perform the duties of the position in accordance with the Affirmative Action guidelines. The search for candidates should be extensive and should recognize that certain groups may be disadvantaged because they historically have not been represented in particular professional fields. The College has a special obligation to take Affirmative Action to seek out candidates for employment from such disadvantaged groups.

This policy applies to all persons working under the aegis of the College, regardless of the source of funding with the following exceptions: While the policies of nondiscrimination, equity, and fairness apply in every case, the guidelines for recruitment and requirements for advertising do not apply to faculty and professional appointments of 16 weeks or less (full- or part-time) or to graduate assistantships. In both cases, however, information about these opportunities should be made as widely available as practicable, and competition for the positions must be open and fair.

(Approved by President Taylor May 8, 2001)

College policy also demands equitable treatment of all students and calls for continued efforts to eliminate overt and subtle forms of unfair discrimination.

On Feb. 23, 1993, the Faculty Senate of State University of New York at Cortland passed the following statement on diversity, which was approved and endorsed by President Clark on Feb. 25, 1993: "SUNY Cortland is dedicated to the affirmation and promotion of diversity in its broadest sense. Our mission requires that people of every background be able to study and work here with an expectation of respectful treatment. We seek to establish standards of behavior which honor the dignity and worth of individuals regardless of their gender, ethnicity, race, age, physical or mental abilities, religious beliefs, sexual and affectional orientation or socioeconomic class.

A major goal of our College is to develop and maintain an atmosphere that supports learning about prejudice and discrimination so that we can strive to reduce it not only on our own campus, but wherever we encounter it. We recognize that advocating for diversity frequently brings discordant viewpoints into focus. As we endeavor to educate ourselves about the effects of our biases, it is important for us to do so within an atmosphere of safety and respect. An environment where it is safe to explore our differences enables us to make more progress toward a campus which celebrates, rather than simply tolerates, the richness inherent in our pluralism."

[Back to Chapter 940](#)

CHAPTER 940.02 IMPLEMENTATION OF POLICY

I. SUNY Cortland's goal of achieving equal opportunity can best be met by concerted efforts to adhere to both the spirit and intent of the relevant legislation and by widely shared, committed efforts to provide opportunities to "affected groups" or "protected classes."

To meet the ultimate goal of having these historically underrepresented affected groups as employees and students of SUNY Cortland in proportion to their demographic representation in the population and/or in the applicant pool, the following objectives are presented:

Recruitment for positions may not be limited to word-of-mouth communication. Such communication tends to deny equal opportunity to affected groups since those groups generally have less access to informal networks. In the same way requests may not be limited to schools, professional societies, or other agencies whose constituencies under-represent affected groups.

Job descriptions, qualifications, entry examinations, and screening procedures must be realistically related to job requirements and must avoid cultural bias.

Employment All academic and professional vacancies will be advertised according to the following procedures. A full explanation of each of these steps and the procedure is provided in the *Search Committee Procedures Manual*, available in the Affirmative Action Office.

1. Establish a search committee
2. File the Request to Fill a Professional/Faculty Position and Recruitment Plan (Form 1, Part A, D and E). Attach the job advertisement and position description.
3. Receive permission to fill the vacancy and permission to advertise.
4. Submit an Americans with Disabilities Act (ADA) job description. (The Human Resources Office will issue the ADA job description form and provides assistance in completing the form.)
5. Do appropriate advertising (keep copies of all ads).
6. Affirmative action officer conducts the Affirmative Action Charge with the search committee.

7. Acknowledge all applicant inquiries.
8. Establish written criteria for screening.
9. Select candidates to be interviewed.
10. Submit folders of all candidates to be interviewed on campus to the department supervisor or manager and the affirmative action officer for their review and approval/disapproval.
11. Prepare written questions to be asked of all interviewed candidates.
12. Conduct interviews, solicit feedback from all interviewers, and issue recommendations.
13. File the Affirmative Action Search Final Report (Form 8). All committee members must review and sign the form. Attach a summary of the strengths, weaknesses, and acceptability of each candidate interviewed on campus.

The affirmative action officer is an ex-officio member of all search committees and should meet with committees to discuss affirmative action goals and procedures. The officer should be informed of interview schedules for candidates.

II. Setting Goals

Based on current availability information, utilization analyses are conducted and goals are established to achieve parity and to correct underrepresentation.

[Back to Chapter 940](#)

940.03 RESPONSIBILITIES AND AUTHORITY FOR IMPLEMENTING THE COLLEGE'S AFFIRMATIVE ACTION PROGRAM

The president of SUNY Cortland is responsible for the Affirmative Action Program. Vice presidents, deans, directors, chairs, and all administrative staff also bear responsibilities for fulfilling the moral and legal obligations of equal opportunity and affirmative action. The president has delegated procedural responsibility for monitoring the program to the affirmative action officer.

The duties assigned to the affirmative action officer are:

1. Assisting academic departments and administrative units with

recruitment of protected class members.

2. Monitoring appointments to ensure compliance with regulations governing affirmative action searches.
3. Monitoring promotion, transfer, permanent appointment, and DSI increment transactions to ensure nondiscrimination.
4. Review and disposition of allegations of discrimination by students and employees in accordance with the SUNY Discrimination Complaint Procedure (formerly the Internal Grievance Procedure.)
5. Maintenance of a database adequate to generate required periodic reports, such as (1) updating of the Affirmative Action Program; (2) biennial filing of the federal EEO-6 report; (3) filing of reports as required by the Governor's Executive Order 40.1; (4) filing of periodic reports on discrimination grievances, applicant flow, and other quantitative analyses required by Executive Order 40.1.
6. Preparation of all affirmative action reports required by federal, state, and University regulations.
7. Ongoing review of campus policies and practices to ensure campus compliance with laws and regulations protecting minorities and women, identifying problem areas and recommending solutions and corrective actions.
8. Ongoing review of campus policies and practices to achieve compliance with the Americans with Disabilities Act, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended (rights of the disabled), and the Age Discrimination Acts of 1967 and 1975.
9. Ongoing review of campus policies and practices to achieve compliance with the Vietnam Era Veterans' Readjustment Assistance Act of 1974.
10. Providing information and assistance to the campus Affirmative Action Committee.
11. Providing staff assistance and data to SUNY Legal Office staff and to state and federal compliance officials reviewing discrimination grievances or conducting routine compliance reviews.
12. Conducting ongoing training sessions, briefings, and workshops to ensure high awareness on campus and in the community of campus affirmative action programs.

[Back to Chapter 940](#)

CHAPTER 940.04 RECRUITMENT AND HIRING

A. The administrative officer responsible for recommending the appointment shall complete the Request to Fill a Professional/Faculty Position form. The form shall include the following components:

1. Names of search or screening committee members or responsible officer.
2. Position description.
3. Contacts to be made including advertising.

(Approved by the President's Cabinet, Sept. 28, 1999)

B. Position Description

1. Define clearly the responsibilities of and qualifications for the position.
2. Qualification and standards shall be job related.

C. Advertising the Position

1. Advertise in selected media directed to potential applicants who are minority, female, and/or disabled as well as in traditional media such as the Chronicle of Higher Education and disciplinary journals.
2. Make direct mail or phone contact with agencies, organizations, and professional organizations, including campus-based groups working on behalf of affected groups.
3. Include the following affirmative action statement in the advertisement: "SUNY Cortland is an AA/EEO/ADA employer." Advertisements for academic faculty positions must further include the statement: "We have a strong commitment to the affirmation of diversity and have interdisciplinary degree programs in the areas of multicultural studies."

D. Communication with Applicants

1. Forward letter of acknowledgment to each candidate, giving as much information as possible about timelines for the search.
- 2 Once the search committee has identified candidates for telephone or on-campus interviews, supervisors have the option of contacting identified candidates, in consultation with the search committee chair and the affirmative action officer.

(Approved by President Bitterbaum, Spring 2004)

E. Selection Criteria

1. Establish and specify criteria consistent with expected duties, responsibilities, or qualifications. The criteria must match those in the job description and advertisement.
2. List criteria in priority order and apply consistently to each candidate.
3. "Third candidate" Policy. When departments are normally allowed to bring only two candidates to campus for interview, they may be permitted by the dean of the school to bring a third candidate provided that candidate is a member of an ethnic minority or a woman in departments where either are underrepresented according to current availability figures. Obviously, the purpose of the policy would be undermined if departments automatically relegated ethnic minority or women candidates to this "third candidate" status simply in order to bring in three rather than two candidates.

F. Interviews

1. Whenever possible, include women and ethnic minorities on the search committee.
2. Interview checklist shall include established selection criteria.
3. Caution interviewers against asking unlawful questions pertaining to race, marital status, disability, religion and other personal matters. (See explanation in the *Search Committee Procedures Manual*.)
4. The affirmative action officer reviews folders of finalists and approves and/or disapproves extending invitations for campus interviews.

G. Affirmative Action Guidelines For the Evaluation of Qualifications

Current federal, state, and SUNY directives place responsibility upon the hiring institution in practical terms, upon the hiring unit for selecting the best qualified candidate from among those produced by an Affirmative Action search. These directives warn that the College should "not inadvertently foreclose consideration of the best qualified persons by untested presuppositions which operate to exclude women and minorities." Job criteria which exclude affected groups are no less discriminatory because the discrimination is hidden or unintended.

Criteria to Avoid as Exclusionary:

- A. Unstated criteria or criteria so vague as to permit arbitrary and highly subjective application in individual cases.
- B. Criteria more rigid or exclusionary than necessary to serve professional and institutional interests.
- C. Assumptions that the best candidates come from the "best" schools operate against women and minorities in several ways: many of these "best" schools excluded women and minorities in the past and still admit relatively few; women and minorities are often less able to pay the higher costs of prestigious institutions; marital and family responsibilities sometimes limit women's geographical mobility and therefore their ability to seek the "best" schools.

Departments customarily give consideration to maintaining a staff balanced in the representation of various graduate schools, geographical areas, fields of specialization, divergent viewpoints within disciplines, and the like. It is also good educational practice to have staff and students who represent the diversity of affected groups.

H. Final Selection

1. Consider affirmative action implications of decision. SUNY Cortland's position on this issue is that, among equally qualified candidates, in areas or departments where women and minorities are underrepresented, the contribution to pluralism and diversity of the woman or minority candidate will weigh heavily in favor of her or his selection.
2. Consider evaluation of all interviewers.
3. Search or screening committee shall meet at the conclusion of the interviews to discuss candidates and make final recommendations.
4. Final report shall be signed by all committee members.

I. Appointment

1. After a verbal inquiry is completed, complete Part B of the request to Fill a Professional/Faculty Position and Recruitment Plan (Form I).
2. Forward the form to the President's Office for completion of the appointment letter.
3. Complete the Affirmative Action Search Final Report (Form 8). The form must be reviewed and signed by all search committee members. A summary of the strengths, weaknesses, and acceptability of each candidate interviewed on campus must accompany the report.

J. Faculty, Professional, and Management/Confidential

The College must recruit from the broadest possible group of qualified candidates for faculty, professional, and management/confidential positions, regardless of the source of funding, and in a manner which assures compliance with both contractual and affirmative action/equal opportunity requirements.

Department chairs or other administrators involved in recruitment and hiring are responsible for ensuring that good faith recruitment efforts are made to locate qualified affected group candidates. When preparing a recruitment plan, department heads are required by policy to seek the advice of the AA/EEO officer on the extent of recruitment necessary for each proposed position vacancy. The AA/EEO officer is an ex officio member of all search committees and assists with the development of current and adequate referral sources for recruiting affected groups.

Recruitment of faculty is conducted by the academic department concerned, governed by adherence to the Affirmative Action Program of the College. Professional and management/confidential staff recruitment is conducted by the appropriate department or office. The use of and composition of search committees for professional and management/confidential positions is discussed in the Search Committee Procedures Manual. The Human Resources Office files vacancy notices with the System Administration Placement Service.

K. Classified Civil Service Personnel (Full-time and Part-time)

With the exception of competitive class appointments from the Civil Service List of Eligibles, all recruitment efforts to locate civil service staff must serve to implement the affirmative action policy of the College. Job announcements for noncompetitive positions are posted and announced through the Human Resources Office. Noncompetitive positions must also be publicly advertised, unless the job can be filled by qualified persons already in the employ of the College. All entry-level, noncompetitive positions must be publicly advertised. Screening of applications is performed by a committee made up of representatives from the College's Affirmative Action Office, the Human Resources Office, and other areas as appropriate.

L. Auxiliary Services Corporation

The Auxiliary Services Corporation (ASC) is a private, nonprofit corporation which has a contractual relationship with SUNY Cortland. Responsibility for affirmative action in ASC has been assigned to the executive director, ASC Office, Neubig Hall.

[Back to Chapter 940](#)

CHAPTER 940.05 RECORDS, REPORTS AND MONITORING

All recruitment efforts shall serve to implement the affirmative action policy of the College.

Recruitment files must be available for a compliance audit by state and federal agencies, and thus must be supported by documented files of the recruiting unit. Files shall be kept for a minimum of three years. The Affirmative Action Office shall also maintain applicant flow data collected from each search. Monitoring of affirmative action performance is the responsibility of the affirmative action officer and of each person with responsibility for employment, retention, promotion, and salary parity.

CHAPTER 940.06 PROMOTIONS AND SALARIES

1. Promotions: The College is committed to ensuring that no employees, including affected groups, are discriminated against in promotions. The criteria governing the promotion of academic employees and the evaluation and promotion of professional employees are set out in the board of trustees policies and in collective bargaining agreements with the unions. The SUNY Discrimination Complaint Procedure (formerly the Internal Grievance Procedure) may be used for review of allegations of discrimination in the matter of promotions. Promotions of Civil Service employees are conducted in accordance with the Civil Service Law.

2. Salaries: The State University of New York salary administration policy requires that salary differences among employees are not to be related in any way to race, sex, national origin, or any other factor irrelevant to fair compensation for work performed. Complaints of discrimination in salary may be addressed through the SUNY Discrimination Complaint Procedure.

CHAPTER 940.07 COMPLAINTS

Faculty members who have complaints related to Equal Employment and Affirmative Action are advised to seek resolution with their department chair or dean. Questions not resolved with chairs or deans may be referred to the provost. Professional staff other than faculty take their complaints to their department supervisors and, when concerns are not resolved, they may be referred to the vice president for the area. Similarly, Civil Service employees of the College are requested to discuss matters of concern with their department heads

and with the director of human resources. Formal allegations related to Affirmative Action and Equal Employment should be taken to the affirmative action officer (see SUNY Discrimination Complaint Procedure , Chapter 950).

All employees and students have a right to seek advice from and to consult with the affirmative action officer at any step in the process.

The State University of New York, in accordance with Title IX of the Education Amendments of 1972, has adopted an Internal Grievance Procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination on the basis of race, color, national origin, religion, age, sex, disability, or marital status. Discrimination on the basis of sexual orientation is prohibited by State University Policy and by New York State Executive Order No. 28, but it is not covered under the federal statutes. The procedure does not supplant or supersede the strongly recommended method of attempting to resolve questions of discrimination within a departmental structure. Neither does the procedure in any way deprive a complainant of the right to file with outside enforcement agencies. The grievance procedure is an additional mechanism which employees of the College community may use to identify and eliminate incidents of illegal discrimination.

Anyone who wishes to file a grievance, or simply to discuss filing a grievance, should contact the affirmative action officer.

CHAPTER 940.08 TERMINATIONS

Involuntary terminations of a professional staff member with continuing appointment, or of one on a term contract within the term, can only be done pursuant to procedures specified in Article XIV of the Board of Trustees Policies and Articles 19, 32, and 35 of the Agreement between the State of New York and the United University Professions, Inc.

Involuntary terminations of employees within the Civil Service Employees Association, Council 82, NYSCOBA and the Professional Employees Federation bargaining units before becoming effective must first be reviewed by the director of human resources for compliance with state and University policies and procedures. Such terminations can only be effected following contract provisions and Civil Service laws.

[Back to Chapter 940](#)

CHAPTER 940.09 PART-TIME APPOINTMENTS

The Affirmative Action Plan applies to part-time as well as to full-time

faculty and professional appointments with the following exceptions: scope of search and requirements for advertising. Most part-time positions are filled by local people or people who live within commuting distance; therefore, it is reasonable to limit searches to nearby communities and graduate schools. Generally this would include the communities of Cortland, Syracuse, Ithaca and Binghamton and the graduate schools within that general area. An advertisement in at least two regional newspapers and contacts with nearby schools will fulfill the requirements of a limited search. All departments which regularly employ part-time people must form a pool of candidates for those positions by conducting a regional search at least once every two years. No reappointment of part-time people can be approved unless these biennial searches are made. The Affirmative Action Office will place in regional newspapers an advertisement for part-time positions each semester. Participation in this ad will fulfill the requirements for establishing a pool.

To be eligible for appointment to a full-time position, a part-time employee must have been hired as the result of an affirmative action search. This includes national, regional and/or local searches for part-time and/or full-time temporary positions. Additionally, the employee must have served in the same capacity (i.e., same job responsibilities within the same department) and have been granted a term appointment. The Board of Trustees policies grant term appointments to part-time faculty and professional staff after six consecutive semesters (three years), because it is at this point in time an employee is seen as having more than a temporary relationship with the campus.

(Approved by President Taylor, November 2002.)

CHAPTER 940.10 WAIVER OF SEARCH

It is necessary to request a waiver of search if proposing to conduct a search of narrow scope or to deviate from the outlined search procedures.

Waivers of search for full or part-time positions can be granted only with the joint approval of the affirmative action officer and the Affirmative Action Committee. Each waiver request is provided to all committee members, who are given 48 hours to contact the chair if they have any misgivings about granting the waiver. As noted in President Clark's memo of June 30, 1982, no official appointment may be offered until it has been reviewed for compliance with Affirmative Action.

Waivers are granted under such special circumstances as illness, death, or late resignations, i.e., conditions which preclude the possibility of a full search. Late resignations are those which come at a

time that prevents the department from advertising, receiving applications and making a decision generally less than six weeks before the start of a term.

The term for a waiver of search is up to one year, depending on the nature of the position and of the search.

(Approved by President Clark, April 25, 1989)

[Back to Chapter 940](#)

[Back to Contents](#)

CHAPTER 950: Discrimination Complaint Procedures for Review of Allegations of Discrimination — State University of New York

[**950.01 Overview**](#)

[**950.02 Informal Resolution Procedures**](#)

[**950.03 The Formal Complaint Procedure**](#)

[**950.04 Definitions and Prohibited Acts and Behaviors**](#)

[**950.05 Selection and Training of Panel and Tripartite Hearing Committee**](#)

[**950.06 Academic Grievances Involving Alleged Discrimination**](#)

950.01 OVERVIEW

The State University of New York, in its continuing effort to seek equity in education and employment and in support of federal and state antidiscrimination legislation, has adopted a grievance procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination on the basis of race, color, creed, age, sex, sexual orientation, disability or marital status.

The State University of New York, in its continuing effort to seek equity in education and employment and in support of federal and state antidiscrimination legislation, has adopted a complaint procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination on the basis of race, color, national origin, religion, age, sex, sexual orientation, disability, veteran status or marital status. Harassment is one form of unlawful discrimination on

the basis of the above protected categories. Conduct that may constitute harassment is described in Section 950.04.

This procedure may be used by any State University of New York student or employee. Employee grievance procedures established through negotiated contracts, academic grievance review committees, student disciplinary grievance boards and any other procedures defined by contract will continue to operate as before. Neither does this procedure in any way deprive a complainant of the right to file with outside enforcement agencies, such as the New York State Division of Human Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights of the United States Department of Education and the Office of Federal Contract Compliance of the United States Department of Labor. However, after filing with one of these outside enforcement agencies, or upon the initiation of litigation, the complaint will be referred to the Office of University Counsel for review and supervision. Contact information may be obtained from the campus affirmative action officer.

This SUNY Complaint Procedure for the Review of Allegations of Unlawful Discrimination provides a mechanism through which the University may identify, respond to and prevent and eliminate incidents of illegal discrimination. The University recognizes and accepts its responsibility in this regard and believes that the establishment of this internal, non-adversarial grievance process will benefit student, faculty, staff and administration, permitting investigation and resolution of problems without resorting to the frequently expensive and time-consuming procedures of state and federal enforcement agencies or courts.

All campuses must use the SUNY Complaint Procedure for the Review of Allegations of Unlawful Discrimination unless the campus has made application for an exception. Requests for an exception, along with a copy of the requesting campus's discrimination complaint procedure must be filed with the State University of New York, Office of the University Counsel. The request for an exception will be acted upon by the Office of University Counsel after a review of the campus's complaint procedure.

The affirmative action officer on each SUNY campus shall receive any complaint of alleged discrimination, shall assist the complainant in the use of the complaint form defining the charge and shall 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.

Complainant is not required to pursue the SUNY internal procedure before filing a complaint with a state or federal agency. In addition, if the complainant chooses to pursue the SUNY internal procedure, the

complainant is free to file a complaint with the appropriate state or federal agency at any point during the process. Upon filing with an external agency, however, the SUNY internal complaint procedure will be terminated and the matter referred to the Office of the University Counsel for review, defense or, if deemed appropriate by counsel, involvement in mediation, conciliation or settlement with the external agency where the complaint was filed, or such other actions as may be in the interests of the University.

During any portion of the procedures detailed below, the parties shall not employ audio or video taping devices.

[Back to Chapter 950](#)

950.02 INFORMAL RESOLUTION PROCEDURES

1. The affirmative action officer on an informal basis may receive initial inquiries, reports and requests for consultation and counseling. Assistance will be available whether or not a formal complaint is contemplated or even possible. It is the responsibility of the affirmative action officer to respond to all such inquiries, reports and requests as promptly as possible and in a manner appropriate to the particular circumstances.

An individual may refuse to reduce a complaint to writing. However, notwithstanding that refusal, there may be a continuing obligation on the part of the campus to investigate the verbal complaint to the best of its ability and proceed with any action that is warranted. Although in rare instances verbal complaints may be acted upon, the procedures set forth here rest upon the submission of a written complaint that will enable there to be a full and fair investigation of the facts.

It is the complainant's responsibility to be certain that any complaint is filed within the 90 day period that is applicable under this paragraph.

2. Complaints or concerns that are reported to an administrator, manager or supervisor concerning an act of discrimination or harassment shall be immediately referred to the affirmative action officer . Complaints may also be made directly to the affirmative action officer .

3. Employees must file a written complaint with the affirmative action officer within 90 calendar days following the alleged discriminatory act or the date on which the complainant first knew or reasonably should have known of such act if that date is later. All such complaints must be submitted on the forms provided by the State University of New York. This form will be used for both the initiation of complaints under the informal procedure and the conversion movement of the complaint to the formal procedure. Students must file a complaint within 90

calendar days following the alleged discriminatory act or 90 calendar days after a final grade is received, for the semester during which the discriminatory acts occurred, if that date is later.

4. The complaint shall contain:

- (a) The name, local and permanent address(es), and telephone number(s) of the complainant.
- (b) A statement of facts explaining what happened and what the complainant believes constituted the unlawful discriminatory acts in sufficient detail to give each respondent reasonable notice of what is claimed against him/her. The statement should include the date, approximate time and place where the alleged acts of unlawful discrimination or harassment occurred. If the acts occurred on more than one date, the statement should also include the last date on which the acts occurred as well as detailed information about the prior acts. The names of any potential witnesses should be provided, if appropriate.
- (c) The name(s), address(es) and telephone number(s) of the respondent(s), i.e., the person(s) claimed to have committed the act(s) of unlawful discrimination.
- (d) Identification of the status of the persons charged whether faculty, staff, or student.
- (e) A statement indicating whether or not the complainant has filed or reported information concerning the incidents referred to in the complaint with a non-college official or agency, under any other complaint or complaint procedure. If an external complaint has been filed, the statement should indicate the name of the person or department or agency with which the information was filed and its address or to which it was reported
- (f) Such other or supplemental information as may be requested.

5. If the complainant brings a complaint beyond the period in which the complaint may be addressed under these procedures, the affirmative action officer may terminate any further processing of the complaint, refer the complaint to University Counsel or direct the complainant to the appropriate alternative forum.

6. If a complainant elects to have the matter dealt with in an informal manner, the affirmative action officer will attempt to reasonably resolve the problem to the mutual satisfaction of the parties.

7. In seeking an informal resolution, the affirmative action officer shall attempt to review all relevant information, interview pertinent witnesses, and bring together the complainant and the respondent, if

desirable. If a resolution satisfactory to both the complainant and the respondent is reached within 24 calendar days from the filing of the complaint, through the efforts of the affirmative action officer, the officer shall close the case, sending a written notice to that effect to the complainant and respondent. The written notice, a copy of which shall be attached to the original complaint form in the officer's file, shall contain the terms of any agreement reached by complainant and respondent, and shall be signed and dated by the complainant, the respondent and the affirmative action officer.

8. If the affirmative action officer is unable to resolve the complaint to the mutual satisfaction of the complainant and respondent within 24 calendar days from the filing of the complaint, the officer shall so notify the complainant. The affirmative action officer shall again advise the complainant of his or her right to proceed to the next step internally and/or the right to separately file with appropriate external enforcement agencies.

The time limitations set forth above may be extended by mutual agreement of the complainant and respondent with the approval of the affirmative action officer. Such extension shall be confirmed in writing by the complainant and respondent.

9. At any time, subsequent to the filing of the complaint form, the Complainant may elect to proceed as specified below and forego the informal resolution procedure.

[Back to Chapter 950](#)

950.03 THE FORMAL COMPLAINT PROCEDURE

1. The formal complaint proceeding is commenced by the filing of a complaint form as described above. The 90 day time limit also applies to the filing of a formal complaint.

2. If the complainant first pursued the informal process and subsequently wishes to pursue a formal complaint, he/she may do so by checking the appropriate box, and signing and dating the complaint form.

3. The complaint, together with a statement, if applicable, from the affirmative action officer indicating that informal resolution was not possible, shall be forwarded to the chair of the Campus Affirmative Action Committee within 10 calendar days from the filing of the formal complaint.

4. If an informal resolution was not pursued, the affirmative action officer shall forward the complaint to the chair of the Campus Affirmative Action Committee within 10 calendar days from the filing of

the complaint.

5. Upon receipt of a complaint, the affirmative action officer will provide an initialed, signed, date-stamped copy of the complaint to the complainant. As soon as reasonably possible after the date of filing of the complaint, the affirmative action officer will mail a notice of complaint and a copy of the complaint to the respondent(s).

Alternatively, such notice with a copy of the complaint may be given by personal delivery, provided such delivery is made by the affirmative action officer (or designee) and, that proper proof of such delivery, including the date, time and place where such delivery occurred is entered in the records maintained by or for the affirmative action officer.

6. Within 10 calendar days of receipt of the complaint, the chair of the Campus Affirmative Action Committee shall send notification to the complainant, the respondent and the campus president that a review of the matter shall take place by a tripartite panel to be jointly selected by the complainant and the respondent from a pre-selected pool of eligible participants.

7. The tripartite panel shall consist of one member of the pre-selected pool chosen by the complainant, one member chosen by the respondent and a third chosen by the two designees. The panel members shall choose a chair amongst themselves. Selection must be completed and written notification of designees submitted to the chair of the Campus Affirmative Action Committee no later than 10 calendar days after the complainant, the respondent and the president received notice as described above.

If the president is the respondent, then the third member of the panel shall be selected by the chancellor or designee in System Administration.

8. In the event that the procedural requirements governing the selection of the tripartite panel are not completed within 10 calendar days after notification, the chair of the Campus Affirmative Action Committee shall complete the selection process.

9. The tripartite panel shall review all relevant information, interview pertinent witnesses and, at their discretion, hear testimony from and bring together the complainant and the respondent, if desirable. Both the complainant and the respondent(s) shall be entitled to submit written statements or other relevant and material evidence and to provide rebuttal to the written record compiled by the tripartite panel.

10. Within 48 calendar days from the completion of selection of the panel, the chair of the tripartite panel shall submit a summary of its findings and the panel's recommendation(s) for further action, on a form to be provided by the affirmative action officer, to the president. If

the president is the respondent, the findings and recommendation shall be submitted to the chancellor or his designee. When the panel transmits the recommendation to the president, the panel shall transmit concurrently, copies to the complainant, respondent and the affirmative action officer.

11. Within 24 calendar days of receipt of the written summary, the president or designee shall issue a written statement to the complainant and respondent, indicating what action the president proposes to take. The action proposed by the president or designee, may consist of:

- (a) A determination that the complaint was not substantiated.
- (b) A determination that the complaint was substantiated.
 - (i) For employees (including student employees) not in a Collective Bargaining Unit the president may take such administrative action as he/she deems appropriate under his/her authority as the chief administrative officer of the College, including but not limited to termination, demotion, reassignment, suspension, reprimand or training.
 - (ii) For students the president may determine that sufficient information exists to refer the matter to the student judiciary or other appropriate disciplinary panel for review and appropriate action under the appropriate student conduct code.
 - (iii) For employees in Collective Bargaining Units the president may determine that sufficient information exists to refer the matter to his/her designee for investigation and disciplinary action or other action as may be appropriate under the applicable collective bargaining agreement.

The action of the president shall be final.

If the president is the respondent, the chancellor or his designee shall issue a written statement indicating what action the chancellor proposes to take. The chancellor's decision shall be final for purposes of this discrimination procedure.

12. No later than 10 calendar days following issuance of the statement by the president or the chancellor, as the case may be, the affirmative action officer shall issue a letter to the complainant and to the respondent(s) advising them that the matter, for purposes of this discrimination procedure, is closed.

The time limitations set forth above in 6, 7, 8, 10, 11, and 12, may be extended by mutual agreement of the complainant and respondent with the approval of the panel. Such extension shall be confirmed in

writing.

13. If the complainant is dissatisfied with the president's or chancellor's decision, the complainant may elect to file a complaint with one or more state and federal agencies. The Campus Affirmative Action Officer will provide general information on state and federal guidelines and laws, as well as names and addresses of various enforcement agencies.

[Back to Chapter 950](#)

950.04 DEFINITIONS AND PROHIBITED ACTS AND BEHAVIORS

1. Sexual harassment in the employment setting is defined as: Unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature when any of the following occurs:

- (a) Submission to such conduct is made a term or condition of an individual's continued employment, promotion or other condition of employment.
- (b) Submission to or rejection of such conduct is used as a basis for employment decisions affecting an employee or job applicant.
- (c) Such conduct is intended to interfere, or results in interference, with an employee's work performance, or creates an intimidating, hostile or offensive work environment.

2. Sexual harassment in the educational setting is defined as: Unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature. Sexual harassment of a student denies or limits, on the basis of sex, the student's ability to participate in or to receive benefits, services or opportunities in the educational institution's program.

3. Harassment on the basis of protected characteristic(s) other than sex/gender:

Harassment based on race, color, age, religion, national origin, disability, sexual orientation or other protected characteristics is oral, written, graphic or physical conduct relating to an individual's race, color or national origin (including an individual's ancestry, country of origin or country of origin of the student's parents, family members or ancestors) or other protected characteristics that is sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the educational institution's programs or activities.

950.05 SELECTION AND TRAINING OF PANEL AND TRIPARTITE HEARING COMMITTEE

1. Panel

The Campus Affirmative Action Committee has the responsibility for recommending to the president a panel of campus administrators, faculty, staff and students from which a tripartite hearing committee may be selected. The campus president annually appoints all affirmative action panel members. Training should occur prior to any specific complaints or cases and, preferably, at the beginning of the school year. Members of the affirmative action panel should become familiar with the internal grievance procedures, discrimination laws and the law and the language of affirmative action. The panel should be assisted in a clear understanding of their responsibilities and rights, such as reviewing confidential material, concepts of burden of proof, confidentiality and responsible record keeping.

2. Tripartite Hearing Committee

The tripartite hearing committee is made up of persons selected from the affirmative action panel (the pool of individuals recommended by the affirmative action committee, approved by the president and trained in the campus internal grievance procedures). One person is selected by the complainant; one person by the respondent and the third member is selected by the other two designees. The three panel members select among themselves a committee chair. The tripartite committee should be given an opportunity to review the procedure and have any questions concerning process answered by the affirmative action officer prior to beginning the investigation.

The tripartite hearing committee is charged with the responsibility of reviewing all facts regarding the alleged harassment, investigating and reporting only on that charge and maintaining confidentiality. The written record compiled by the committee must be clearly identified and described to ensure that findings are based on documented information extracted from pertinent records and letters.

950.06 ACADEMIC GRIEVANCES INVOLVING ALLEGED DISCRIMINATION

The Academic Grievance Tribunal normally hears student complaints concerning grades (see 350.02c). If discrimination is alleged to be the basis for the grade, the campus affirmative action officer shall sit with the tribunal in an advisory capacity during the review.

[Back to Chapter 950](#)[Back to Contents](#)

CHAPTER 960: Procedures for Dealing with Sexual Harassment

[**960.01 SUNY Cortland Policy Statement**](#)[**960.02 Purpose**](#)[**960.03 Definitions**](#)[**960.04 Procedures**](#)

960.01 Sexual Harassment Policy

The College is committed to maintaining a learning and working environment that is free of unwelcome conduct of a sexual nature which adversely affects a student's learning environment or an employee's working environment.

Harassment on the basis of sex is a form of discrimination and is a violation of Title VII of the 1964 Civil Rights Act and Title IX of the Educational Amendments of 1972. It is also a violation of New York State law, SUNY policy and Cortland College policy. Sexual harassment may be either subtle or overt.

Sexual harassment includes such categories as seductive behavior, sexual bribery and sexual coercion. Seductive behavior is unwanted, inappropriate and offensive physical or verbal sexual advances. Sexual bribery includes the solicitation of sexual activity or other sex-linked behavior by promise of reward or benefit of some kind. Coercion of sexual activity or other sex-linked behavior by threat of punishment is sexual coercion.

960.02 PURPOSE

The purpose of these procedures is to protect the student or employee. The intention is to create a climate in which the student or employee can feel free to discuss sexual harassment concerns short of formal complaint and to guarantee the student or employee protection from retaliation. At the same time, the procedures recognize that the charge of sexual harassment is a serious one and the student or employee must be protected from false or capricious accusations.

Incidents of sexual harassment are reported at various places — often to the Counseling Center, sometimes to the University Police Department, sometimes to a trusted faculty member, residence hall director, residence assistant and sometimes to the affirmative action officer. It is important to establish a clearinghouse for these complaints so as to identify patterns of offensive behavior if it exists. Persons hearing complaints are asked to encourage complainants to speak with affirmative action officer so that the officer can perform this clearinghouse function.

A student or employee may feel free to discuss with the affirmative action officer problems of definition and identification of sexual harassment. At the initial inquiry stage, confidentiality to the extent possible will be promised to the student or employee for all internal procedures. If, after informal discussion, the student wishes to file a complaint, the affirmative action officer will explain the necessary procedural steps.

See also paragraphs 5 and 6 of Section 220.09, "Code of Ethics," as it relates to consensual relationships.

960.03 DEFINITIONS

See Section 950.04.

960.04 PROCEDURES

Since sexual harassment has been ruled a form of sexual discrimination, the SUNY Complaint Procedure for the Review of Allegations of Unlawful Discrimination is available to all accusers. The procedure is available for informal resolution of complaints before more formal steps are taken.

Use of the SUNY Complaint Procedure in no way deprives a student or employee of the right to use other internal processes or to file with external enforcement agencies. The SUNY Complaint Procedure for the Review of Allegations of Unlawful Discrimination is outlined in Chapter 950.

[Back to Chapter 960](#)

[Back to Contents](#)

CHAPTER 970: Procedures for Dealing with Charges of Discrimination or Harassment in Employment Based on

Sexual Orientation

970.01 Statement of Policy

970.02 Definitions

970.04 Complaints

NOTE: This procedure shall be liberally construed to effect the purpose of Executive Order No. 28 (State of New York).

970.01 STATEMENT OF POLICY

- A. The College will not discriminate against an applicant or employee because of sexual orientation. This includes all employment practices such as hiring, appointing, promoting, retaining, training, granting permanent appointment, assigning work, or engaging in other conduct which otherwise adversely affects the employment opportunity of applicants or employees on the basis of sexual orientation of the employee or applicant.
- B. The College will not discriminate on the basis of sexual orientation against any individual in the provision of services or benefits by the College. Harassment on the basis of sexual orientation will not be countenanced at SUNY Cortland in the employment relationship.
- C. The College will ensure that no discrimination against a person because of sexual orientation will occur on campus.

970.02 DEFINITIONS

Sexual orientation is defined as the disposition of a person for heterosexuality, homosexuality, asexuality or bisexuality or a history of such a disposition or any identification with having such a disposition. Discrimination is defined as any conduct that has the purpose or effect of making sexual orientation the basis for an employment decision or that interferes with an employee's work performance or that creates an intimidating, hostile or offensive work environment.

970.03 COMPLAINTS

Complaints will be processed in accordance with the SUNY Discrimination Complaint Procedure (Chapter 950.03).

[Back to Contents](#)