

**EXEMPT and NONEXEMPT EMPLOYEES  
(Administrative Professional, Professional Academic, Support  
Staff and Union)**

**EQUAL EMPLOYMENT OPPORTUNITY, DIVERSITY, AND ANTI-  
HARASSMENT: POLICIES AND PROCEDURES**

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# EQUAL EMPLOYMENT OPPORTUNITY, DIVERSITY, AND ANTI-HARASSMENT

## I. INTRODUCTION

This document communicates the philosophy and perspective of Skidmore College regarding issues of equal employment opportunity, diversity, and anti-harassment. It also presents the College's policies, objectives, and plans for maintaining its status as an equal opportunity employer and educator and for supporting its goal of extending the diversity of our community. While some of the policies outlined are required for legal compliance, others are internally motivated and reflect our commitment to an inclusive and hospitable working and learning environment.

Equal Employment Opportunity laws and regulations prohibit discrimination against employees or applicants for employment based on race, color, religion, gender, age, national or ethnic origin, physical or mental disability, veteran status, marital status, sexual orientation, or any other characteristic protected by applicable federal, state, or local laws. The College fully supports these prohibitions and has adopted policies reflecting its commitment to non-discrimination and equal opportunity in its employment and educational practices.\*

For more information on Equal Employment Opportunity laws please visit these sites: (<http://www.eeoc.gov/policy/laws.html>) or (<http://www.eeoc.gov/>)

Skidmore College's equal opportunity and diversity policies further apply to the recruitment and admission of its students, to the administration of its educational policies and programs, and to the recruitment and retention of its faculty and staff. They apply, in addition, to all individuals and organizations associated with, or doing business with or for, Skidmore College.

These policies and philosophy constitute a firm commitment to the principles of equal opportunity for all members of the college.

## II. SUMMARY STATEMENTS OF POLICY

### A. Policy on Equal Employment Opportunity

Skidmore College affirms that its community members have the right to be free from acts of unlawful discrimination. The following statement of policy on "Equal Employment Opportunity" affirms Skidmore College's commitment to the principle of equal employment opportunity in education and employment:

#### ***Equal Employment Opportunity Policy***

**Skidmore College is committed to being an inclusive campus community and an Equal Opportunity Employer. The College therefore prohibits discrimination against any individual or group of its students, prospective students, employees, or candidates for employment on the basis of race, color, religion, age, national or ethnic origin, physical or mental disability, veteran status, marital status, sex, sexual orientation,**

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\* Gender identity and expression, while protected under Skidmore College policy, are not currently protected under federal, state, or local laws.

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**gender identity or expression,<sup>\*</sup> or any other category protected by applicable federal, state, or local laws.**

### **B. Policy on Diversity**

The principal mission of Skidmore College is the education of predominantly full-time undergraduates – a diverse population of talented students who are eager to engage actively in the learning process (*Skidmore College Mission Statement*). Fulfillment of this mission entails building an academic community based upon mutual respect and openness to ideas, one in which individuals value differences in perspective. Fostering such a community requires the active recruitment and retention of students, faculty, and staff members of diverse backgrounds and cultural heritages.

To read the *Skidmore College Mission Statement* in its entirety, please visit the Skidmore website at: <http://www.skidmore.edu/planning/index.htm>

Appreciation of diversity is fundamental to a liberal arts education that aims to foster the growth of the whole person in an environment of respect and understanding for different experiences and backgrounds. A diverse community provides each of us with the opportunity to learn from the experiences of others and to submit our own values and assumptions to critical examination. We learn to understand others and ourselves better in an environment that encourages deepened appreciation of other cultures, perspectives, and lived experiences.

The following statement of “Diversity Policy” affirms the College’s commitment to increasing the diversity within the various groups that constitute our academic community:

#### ***Diversity Policy***

**Skidmore College’s learning and working communities are strengthened by the diversity of their members. Accordingly, the College is committed to acting affirmatively to enhance the diversity of every population within the campus community: students, faculty, and staff.**

To place the commitment to diversity within the context of the College’s strategic goals and objectives, and as a further guide to hiring practices, please see the statement on “*Diversity in Hiring: Strategic Considerations*”.  
<http://cms.skidmore.edu/IPPC/loader.cfm?url=/commonspot/security/getfile.cfm&pageID=114173>

As a matter of policy, Skidmore College will work actively to increase the diversity of our community. We will address imbalances in both student and employee populations and meet our diversity-related objectives by recruiting the best candidates from as broad a pool as possible. As always, we will continue to be guided by our fundamental educational values – leading our students to develop robust cognitive abilities, enhanced critical and intercultural skills, and an appreciation of their individual and

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social responsibilities as citizens of the world. Meeting these objectives is crucial to our achieving new levels of excellence.

### C. Policies on Accessibility and Accommodations

Skidmore College is committed to supporting accessibility, with respect to both physical access and other forms of access, to all programs on campus.

#### *Accessibility and Accommodations Policy*

**In accordance with applicable federal\* and state laws protecting qualified individuals with documented disabilities, Skidmore College will reasonably accommodate such individuals (except in the rare case when doing so would create an undue hardship for Skidmore College).**

Any staff member or administrator with a disability who requires accommodations to perform his/her duties effectively should contact his/her supervisor or the Assistant Director for Equal Employment Opportunity and Workforce Diversity (ADEWD).

### D. Policy on Anti-Harassment

Skidmore College affirms that its community members (faculty, staff, administration, and students) have the right to be free from acts of harassment (based on the protected characteristics of an employee or student) that constitute unlawful, offensive, and hostile behavior. Such acts include (but are not limited to) sexual or racial harassment. In general, such harassment may consist of (but is not limited to) words, signs, jokes, pranks, acts of intimidation, or acts of physical violence that unreasonably interfere with an individual's work or educational pursuits or that create a hostile, offensive, or intimidating work or learning environment. By College policy, all members of the Skidmore community are prohibited from engaging in any such acts of harassment. Applicable federal and state laws also prohibit harassment in the workplace. The complete statement of College policy may be found in the "Anti-Harassment Policy" statement.

To read Skidmore College's "Anti-Harassment Policy" statement in its entirety please visit the Skidmore website at:

<http://cms.skidmore.edu/hr/brochureunderconstruction.cfm>

### E. Policy on Retaliation

Skidmore College prohibits any and all retaliation against any person who submits a report of harassment or discrimination or who cooperates in any investigation arising from such a report. Any individual who retaliates against a person bringing a complaint or those involved in the investigation will be disciplined, up to and including separation from the College.

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\* <http://www.eeoc.gov/policy/laws.html>

**F. Policy on Consensual Sexual Relationships Involving Students**

As an academic community, Skidmore College stands by principles of fairness, equal opportunity, and non-discrimination. These principles take on special meaning in the relationship between students and members of the faculty or others in an advising or evaluative relationship. Specifically, all students have the right to be treated fairly, held to the same requirements and standards, and afforded equal opportunities based on their individual accomplishments. All employees are expected to maintain professional relationships with all College students, to act in accordance with standards of professional conduct, and to avoid conflict of interest, favoritism, bias, or creation of a hostile environment for any student of the College.

**1. Policy on Consensual Sexual Relationships with Current Students**

**Sexual relationships, whether consensual or not, between College employees and their students (those whom they currently teach, advise, supervise, coach, evaluate, or hold authority over in any way) violate the integrity of the College's academic community and constitute grounds for disciplinary action up to and including separation from the College.**

**2. Policy on Consensual Sexual Relationships with Students When There Is No Formal Authority over the Student**

**Even if a College employee does not currently hold a position of authority over a student, any sexual relationship between an employee and a student of the College potentially jeopardizes the integrity of the academic or living environment of the Skidmore community. The College, therefore, discourages in the strongest possible terms any sexual relationship between an employee and any student of the College. In the event that any such relationship is found to undermine the trust, respect, and fairness that are essential to the success of Skidmore's educational mission, the College will take appropriate disciplinary action, up to and including separation from the College.**

**III. REVIEW AND LIABILITY**

**A. Policy Review**

These policies may be modified by the President based upon recommendations by, and consultation with, members of the President's Cabinet, the Director of Human Resources, the ADEWD, the Institutional Policy and Planning Committee (IPPC), and the Faculty Executive Committee (FEC). The College leadership shall periodically review its practices and procedures regarding admissions, recruitment, hiring, promotion, and other areas of concern to students, employees, and the College as an employer and shall seek to redress any inequities or conditions related to prohibited practices that come to its attention.

**B. Employees' Liability for Violations of these Policies**

Any employee of Skidmore College who violates the policies described above is subject to disciplinary action, up to and including separation from the College. Additionally, any

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supervisor or manager who has information regarding possible violations of these policies, and takes no action to stop the misconduct or fails to report the possible violation to an appropriate individual, may also face disciplinary action, up to and including separation from the College. Employees who violate these policies and supervisors or managers who fail to address or report such possible violations may also be subject to civil or criminal liability.

Employees of the College are further advised that violation of these College policies by definition entails actions that fall outside the scope of their duties. This means that they may not be eligible for the College's insured or uninsured protection should their conduct become the subject of civil or criminal legal proceedings.

### IV. PROCEDURES REGARDING EQUAL EMPLOYMENT OPPORTUNITY AND DIVERSITY

This article establishes procedures for implementing the policies regarding Equal Employment Opportunity and Diversity at Skidmore College.

#### A. Scope

1. Educational Environment:

In accordance with its policy on equal opportunity, Skidmore College prohibits discrimination against any students on the basis of race, color, religion, gender, age, national or ethnic origin, physical or mental disability, veteran status, marital status, sexual orientation, gender identity or expression,\* or any other characteristic protected by applicable federal, state, or local laws.

For more information on Equal Employment Opportunity law please visit this site:

<http://www.ed.gov/about/offices/list/ocr/know.html>

2. Employment Environment:

As stated above, the College prohibits discrimination on the basis of race, color, religion, gender, age, national or ethnic origin, physical or mental disability, veteran status, marital status, sexual orientation, gender identity or expression,\* or any other category protected by applicable federal, state or local laws. To implement this policy, guidelines have been established to ensure equal opportunity in all employment policies and practices. These guidelines apply across the institution:

- a. All position vacancies will be subject to equal employment opportunity search standards, which establish procedures for internal posting and external advertisement appropriate to a position's relevant labor market. The scope of a search is determined by the ADEWD in consultation with the hiring department or office. The nature of the position dictates whether a qualified pool of candidates may most appropriately be recruited from a local, regional, or national market. When the opening is one of the College's bargaining unit positions, the procedure outlined in the respective bargaining agreements will be followed.

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- b. In some situations, the ADEWD may waive the requirement for a full search. Normally, a waiver-of-search may be approved if one of the following three actions is proposed: filling a vacancy by promotion; filling a vacancy on a temporary basis (non-recurring appointment for a maximum of one year); or filling a vacancy as a result of internal reorganization. In these cases, or in the case of other extenuating circumstances, a full search may not be desirable, and the ADEWD will give careful consideration to requests for search waiver.
- c. The Department of Human Resources maintains and updates lists of recruitment resources for all searches.
- d. The Department of Human Resources routinely sends announcements of non-bargaining unit position vacancies to local and regional organizations that represent historically underrepresented groups. Hiring Managers are strongly encouraged to network through their own personal and/or professional contacts in an effort to broaden the diversity of candidate pools for all positions. Such outreach should occur on a regular basis, even in the absence of an immediate position vacancy.
- e. All applicants for academic and nonacademic position vacancies will receive an acknowledgment of their interest in employment at Skidmore through a postcard, e-mail, or letter. Those applicants who file their applications on line will receive a confirmation number as their acknowledgement.
- f. Before any candidate in a search is invited for an interview (whether on or off campus), the office or department responsible for hiring will contact the ADEWD, to review the applicant pool. If the pool is not sufficiently inclusive, the ADEWD may recommend further steps. The process outlined in the bargaining unit agreements are followed for all union positions.
- g. At the conclusion of the interviewing phase, the office or department responsible for hiring will contact the ADEWD to discuss the candidates interviewed. No oral or written commitment may be made to a candidate until the ADEWD has agreed that appropriate equal employment opportunity procedures have been followed. If such policies and procedures have been violated, the search may be deferred.

### **B. Administration: Roles and Responsibilities**

1. Members of President's Cabinet are responsible for the coordination of institutional efforts and resources to advance the strategic goals of increasing and retaining a diverse faculty and staff and of fostering an inclusive campus climate.
2. The ADEWD, in consultation with President's Cabinet, is charged with providing leadership in recommending and implementing strategies to secure and maintain a diverse campus community of faculty and staff; coordinating institution-wide equal opportunity and diversity employment efforts, including equal employment opportunity strategies and activity on all searches; planning and initiating all education for faculty and staff on matters of equal employment

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opportunity, unlawful discrimination, and harassment; and coordinating this activity with related student education provided by Student Affairs staff. The ADEWD is responsible for coordinating and disseminating to the community an annual report on the state of diversity at the College.

3. The ADEWD provides counsel to the President and President's Cabinet on issues of equal employment opportunity, diversity, and anti-harassment. The ADEWD communicates as appropriate with the President, members of President's Cabinet, the Associate Vice President for Finance and Administration and Director of Human Resources, and members of Academic Staff. The ADEWD is also available for consultation with any other member of the Skidmore community.

### **V. ANTI-HARASSMENT POLICY**

Harassment is unlawful and therefore prohibited by Skidmore College.

The College is committed to maintaining a positive learning and working environment for all of its students and employees. In accordance with applicable laws, including Title VII of the Civil Rights Act of 1964 as amended, Title IX of the Education Amendments of 1972, the Pregnancy Discrimination Act of 1978, the Americans with Disabilities Act, the Civil Rights Act of 1991, and applicable federal, state, or local laws prohibiting sexual assault and abuse, the College prohibits harassment (including sexual harassment) of any individual or group of its students, prospective students, employees, or candidates for employment on the basis of race, color, religion, age, national or ethnic origin, physical or mental disability, veteran status, marital status, sex, sexual orientation, gender identity or expression\*, or any other category protected by applicable federal, state, or local laws. These policies apply to all persons affiliated with the College including administrators, faculty members, staff members, and students.

#### **A. Harassment Defined**

Harassment on the basis of race, color, religion, gender, age, national or ethnic origin, physical or mental disability, veteran status, marital status, sexual orientation, gender identity or expression\*, or any other category protected by federal, state, or local laws occurs when

- an individual or group of individuals is targeted with oral, written, visual, or physical insults based on that person's or group's protected status; and
- such conduct has the purpose or effect of unreasonably interfering with an employee's or student's work, professional or educational performance, productivity, physical security, living arrangements, extracurricular activities, academic or career opportunities, services or benefits - or of creating an intimidating, hostile, or offensive working or learning environment.

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When both circumstances identified above are present, examples of conduct constituting harassment may include (but are not limited to) the following:

- intimidation, hostility, or rudeness
- oral or written threats, derogatory comments, name-calling, or slurs
- display of derogatory posters, photographs, cartoons, drawings
- offensive gestures
- assault, unwanted touching, or blocking normal movement

Whether the alleged conduct constitutes harassment will be determined on a case-by-case basis, taking into account relevant factors, such as the nature of the conduct and the context in which the incidents occurred.

The fact that someone did not intend to harass another individual may not constitute an adequate defense in response to a complaint of harassment. Regardless of intent, the characteristics, context, and effect of the behavior that determine whether the behavior constitutes harassment.

In addition, a faculty member, employee, or student may experience harassment from a salesperson or vendor, the parent of a student, alumna/us, visitor, or any other member of the extended College community who has contact with Skidmore faculty, staff, or student populations. Harassment may take place in person, by phone, or by means of print or electronic media. Skidmore's policy applies to all employees and students of the College whenever they are interacting with one another. Off-campus violations may occur at campus-sponsored events or programs, such as athletic events, internship arrangements, professional meetings, or at private events (such as parties).

### **B. Sexual Harassment Defined**

Applicable state and federal law defines sexual harassment as any unwelcome sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature. In particular, sexual harassment occurs when

- submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement (*quid pro quo* harassment),
- submission to, or rejection of, the conduct is used as the basis for employment or academic decisions affecting the individual (*quid pro quo* harassment), or
- the conduct has the purpose or effect of unreasonably interfering with an employee's or student's work, professional or educational performance, productivity, physical security, participation in living arrangements, extracurricular activities, academic or career opportunities, services or benefits—or of creating an intimidating, hostile, or offensive working or learning environment.

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This definition includes verbal, non-verbal, and physical harassment. The following examples of sexual harassment are intended to be instructive but not inclusive:

**Verbal Harassment** may take oral or written form and may include profanity, sexual jokes, or teasing, whistling, cat calls, threats, or repeated unwelcome requests for a date.

**Non-verbal Harassment** may include staring, blowing kisses, winking, or displaying sexually suggestive material in the work area, in the classroom, in lockers, or as screen savers on one's computer.

**Physical Harassment** may include touching, bumping, grabbing, cornering, or blocking passage.

Whether the alleged conduct constitutes harassment will be determined on a case-by-case basis, taking into account relevant factors, such as the nature of the conduct and the context in which the alleged incidents occurred.

Sexual harassment may occur on or off campus, including, but not limited to, the classroom (student to student, faculty to student, student to faculty) and the work setting (supervisor to employee, employee to supervisor, employee to employee, student to faculty or employee). Skidmore's policy applies to all employees and students of the College whenever they are interacting with one another. Off-campus violations may occur at campus-sponsored events or programs, such as athletic events, internship arrangements, and professional meetings, or at private events such as a party. In addition, a faculty member, staff member, administrator, or student may experience sexual harassment from a salesperson or vendor, the parent of a student, an alumna/us, visitor, or any other member of the extended College community who has contact with Skidmore faculty, staff, or student populations. Sexual harassment may take place in person, by phone, or by means of print or electronic media.

The fact that someone did not intend to sexually harass another individual may not constitute an adequate defense in response to a complaint of sexual harassment. Regardless of intent, the characteristics and effect of the behavior that determine whether the behavior constitutes sexual harassment.

### C. Third-Party Sexual Harassment

It is important to recognize that sexual harassment may be injurious to a third party when that person is negatively affected by unwelcome or welcome sexual conduct between other individuals in that third party's work space or classroom – or any other setting that requires a Skidmore College employee or student to be present for purposes of work or learning.

## VI. PROCEDURES FOR RESOLVING COMPLAINTS OF HARASSMENT OR DISCRIMINATION

Employees should report any instances they believe to constitute harassment or discrimination. Disclosing such incidents provides the parties an opportunity for consultation with appropriate College personnel and the opportunity to resolve complaints promptly and effectively.

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Allegations against Faculty will be resolved according to procedures outlined in the Faculty Handbook. Allegations against students (including full-time students who are also employees) will be resolved according to procedures outlined in the Student Handbook. Allegations against staff members (including administrators) will be resolved according to procedures outlined below.

Using the procedures outlined below, any staff member who believes he or she is the victim of harassment should report the matter to one of the following individuals listed below, all of whom are able to assist those having a harassment concern. These individuals are available to provide information about the College's harassment policy, the resolution process that the College has adopted, and appropriate actions that might be taken.

- Department Director
- Supervisor
- Associate Vice President for Finance and Administration and Director of Human Resources
- Assistant Director for Equal Employment Opportunity and Workforce Diversity (ADEWD)

### A. Definition of Terms

In the process that follows, the following terms are used:

**Complainant** – the individual filing an informal or formal complaint of discrimination or harassment.

**Respondent** – the individual alleged to be responsible for a discriminatory or harassing action.

**Appellant** – the individual appealing the disposition of a complaint (either the complainant or respondent).

**Inquiry** – the process used in the informal stage of a complaint.

**Investigation** – the process used in the formal stage of a complaint.

**Appropriate Official**—the complainant's or respondent's department director, supervisor, or the Associate Vice President for Finance and Administration and Director of Human Resources. If the appropriate official has a conflict of interest, the Associate Vice President for Finance and Administration and Director of Human Resources will designate a replacement.

### B. Reporting Suspected Harassment and Discrimination

#### Who should report

Any applicant for employment, employee or former employee who believes that he/she has been discriminated against or harassed should report such instances to the appropriate official.

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### **When to report**

A report must be made to the College within 60 days of the alleged incident. A formal complaint must be filed in writing within 10 work days after an informal inquiry has been completed or within 10 work days of the conclusion of the mediation process. Federal regulations require that a complaint be filed with the appropriate agencies within 180 days of the initial incident; New York State requires that a complaint be filed within one year following the date of the alleged incident.

### **Confidentiality**

To the extent possible, those handling complaints will endeavor to maintain the confidentiality of all parties involved in the informal and formal process. This confidentiality extends to those seeking assistance, to those filing a complaint, to respondents, and to those serving as witnesses; confidentiality also extends to those creating or reviewing any documents related to the complaint. Information about the complaint is therefore provided only to those individuals within the College who have a need to know that information in order to investigate and/or resolve the complaint. This requirement of confidentiality does not mean that the details of the complaint will be withheld from the respondent.

Nevertheless, the College cannot guarantee absolute confidentiality. In order to ensure compliance with College policies and federal and state laws, the College may be required to disclose information about a complaint to agencies or to individuals not involved in the complaint. Moreover, when the complaint involves alleged acts of a criminal nature, the College may be required by law to notify law enforcement authorities. The College may also publicly divulge details of the outcome if one of the parties discloses selective portions of the proceedings or if the complainant or respondent contests the findings or results of the College's investigation in the course of a lawsuit.

### **Filing a Complaint**

Employees should report instances of alleged harassment or discrimination to one of the following:

- the appropriate Director
- Supervisor
- Associate Vice President for Finance and Administration and Director of Human Resources or his/her designee
- ADEWD

All the above officials will convey information received to the ADEWD, who will initiate an informal inquiry.

When a complaint of harassment or discrimination has been taken up by an agency outside of the College as a result of a possible violation of federal, state, or local law or regulation, the College may decide to cancel or continue any internal inquiry/investigation already in process. The College may also conduct its own investigation once the external action is completed.

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The College's complaint process, for the purpose of meeting required deadlines, begins once the ADEWD conducts an initial interview with the complainant. During the initial interview, the ADEWD will discuss with the complainant whether or not the alleged incident(s) of harassment or discrimination constitute(s) a violation of the College's policies. The complainant will also be told about his/her rights under the College's complaint procedures.

The complainant **will** have the right to

- have a representative (not an attorney), or a shop steward if a member of a union, present as an observer during the complaint process;
- be granted confidentiality throughout the process;
- withdraw the complaint at any time during the process (with the understanding that the College may be required to pursue the issue);
- review and sign his/her own statement and receive a copy;
- review the ADEWD's summary, which indicates whether the alleged misconduct was found to violate College policy;
- file the complaint with a federal, state, or local agency designated to hear/investigate EEO complaints;
- request mediation; and to
- have a meeting with the ADEWD after the informal inquiry and, if the complaint proceeds, after the formal investigation.

The complainant **will not** have the right to

- have an attorney present;
- use any mechanical device to record the proceedings (in case of disability, the representative may be delegated to take notes);
- ask questions of the respondent or witness(es);
- identify the penalty or corrective action for the respondent if that person is found to have violated a college policy;
- review the complete complaint file and associated documents (e.g., witnesses' statements); nor to
- receive a copy of the complete complaint file.

Once a complaint is received, the ADEWD will meet with the respondent to inform him/her of the complaint. The respondent will also be told about his/her rights under the College's complaint procedures.

The respondent **will** have the right to

- have a representative (not an attorney), or a shop steward if a member of a union, present as an observer during the complaint process;
- receive a copy of the written complaint;
- be granted confidentiality throughout the process;
- respond to the complaint;
- review and sign his/her own statement and receive a copy;
- request mediation;
- have a meeting with the ADEWD after the informal inquiry; and to
- review a copy of the final summary of the complaint in the presence of the appropriate official.

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The respondent **will not** have the right to

- have an attorney present;
- use any mechanical device to record the proceedings (in case of disability, the representative may be delegated to take notes);
- ask questions of the complainant or witness(es);
- review the complete complaint file and all associated documents (e.g., witnesses' statements); nor to
- receive a copy of the complete complaint file.

Any discussion during the initial interviews with the complainant or the respondent will be documented and signed by the individual making the statement and the ADEWD. The individual making the statement will be given a copy of the signed document, and the ADEWD will enter the original in the complaint file.

### C. Informal Complaint Resolution

All concerns or complaints directed to the ADEWD will be processed initially using the informal (inquiry) complaint procedure. During this stage, the ADEWD will meet separately with the complainant, the respondent, and any witnesses who may have relevant information.

Witnesses to the complaint (other than the complainant or respondent) **will** have the right to

- have a representative (not an attorney), or a shop steward if a member of a union, present as an observer during the complaint process;
- be granted confidentiality throughout the process (as described in B above); and to
- review and sign their own statements and receive copies.

Witnesses to the complaint (other than the complainant or respondent) **will not** have the right to

- have an attorney present;
- use any mechanical device to record the proceedings (in case of disability, the representative may be delegated to take notes);
- ask questions of the complainant or respondent;
- review the complete complaint file and all associated documents; nor to
- receive a copy of the complete complaint file.

Depending on the nature of the complaint, mediation may be offered. If the complainant accepts this approach, the respondent will be encouraged to participate in the mediation process. If the parties agree to a resolution, it will be documented in an agreement. Both parties will be given a copy of the agreement, and a copy will be retained with the complaint file by the ADEWD.

### D. Formal Complaint Procedures

The ADEWD will notify the complainant and the respondent in writing when the informal process is concluded. If no resolution/agreement is reached during the informal stage of the complaint as outlined above, the complainant will have the right to submit a formal written complaint within 10 days to the ADEWD. The formal complaint must be signed

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and should be delivered (return receipt requested) to: Human Resources, Barrett Center, Skidmore College, Attn: ADEWD, 815 North Broadway, Saratoga Springs, NY 12866.

The formal complaint must include the following:

1. The complainant's name, address, telephone number(s), and e-mail address
2. A complete description of all the alleged incident(s) or actions leading to the complaint
3. Names of witnesses and information they can offer relative to the complaint
4. Witness contact information (phone numbers, e-mail addresses)
5. All documents and other tangible evidence available to support the allegations
6. Identification of a representative (if there is to be one) and his/her relationship to the complainant
7. The complainant's signature and date

When a staff member is formally accused of harassment or discrimination, the ADEWD will conduct the investigation independently, or in conjunction with another trained professional.

### E. Advisory Panel

1. When a faculty member is formally accused of harassment or discrimination, the College's procedures establish opportunities for other faculty members to provide advice and recommendations. Such faculty advice and recommendations will be provided through the Advisory Panel (AP).

2. After receiving the formal complaint against a faculty member, the ADEWD will convene the Advisory Panel.

3. In the case of complaints by staff member against faculty members, the AP will consist of two tenured faculty members selected by the ADEWD from the Faculty Advisory Board (FAB) and two staff members selected by the ADEWD from a Staff Advisory Board (SAB). The SAB, established by the Associate Vice President for Finance and Administration and Director of Human Resources, consists of staff members trained in issues relating to discrimination and harassment.

4. Faculty or staff members from the same department or office as either the complainant or the respondent may not serve on the AP. Any panelist with a conflict of interest may not serve. In addition, the complainant and the respondent each may request that one of the chosen panelists be replaced. In the event that a two-or-four person AP cannot be selected from these various boards, the VPAA and the Chair of FEC (in the case of faculty) or the Associate Vice President for Finance and Administration and Director of Human Resources (in the case of staff) will provide replacements as needed. Any such replacements will receive training appropriate to the complaint.

### F. Investigation

All information gathered during the informal process will continue to be used in the formal process. The ADEWD will provide the respondent with a copy of the formal

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complaint as submitted by the complainant within 3 work days\* of receipt of the complaint. The ADEWD also will provide a letter to the respondent, outlining the investigation process and clarifying the respondent's rights as well as the College's expectation of full cooperation. During the formal process, all witnesses identified by the complainant and respondent will be interviewed, if the ADEWD determines that they may offer relevant facts. All witnesses will receive a letter outlining the role of a witness during the investigation as well as the College's expectation of their participation.

The complainant will be required to provide any requested documents and respond to requests for additional information in a timely manner (within 5 work days of receipt of a request). After 5 days, the ADEWD will repeat the request in writing; if the complainant does not respond within 10 work days after this written request for information is made by the ADEWD, the individual's complaint may be closed for failure to participate, and a notice of cancellation will be sent. Cancellation for lack of participation cannot be appealed by the complainant. Under certain circumstances, however, the College may be required to continue its investigation.

If the complaint involves a faculty member as a respondent, members of the AP will participate in the interviews, but the ADEWD will take the lead in questioning. When a complaint is filed against a staff member, the ADEWD will conduct the investigation independently, or in conjunction with another trained professional. The AP will not participate in these types of investigations.

When possible, the investigation will be completed within 20 calendar days from the date the formal complaint is filed, unless more time is requested by the ADEWD. If the investigation will exceed this time limit, the ADEWD will provide written notification to the complainant, the respondent, and the appropriate official.

Upon completion of the investigation, the ADEWD will develop a complaint file consisting of all documents gathered during the investigation, along with statements from witnesses. The ADEWD will prepare a final report, including the summary, findings, and conclusions.

### **G. Legal Review**

Upon completion of the investigation the Associate Vice President for Finance and Administration and Director of Human Resources will review the complaint file with the ADEWD and determine whether the report should be forwarded for legal review to the College's attorney. In either case the ADEWD will meet with the appropriate official (relevant Dean, Vice President or Supervisor) to report the results.

### **H. Administrative Review**

Within five work days from the final decision on the summary, findings, and conclusions, the ADEWD, along with the Associate Vice President for Finance and Administration and Director of Human Resources, will share the results with the appropriate official. The appropriate official (Vice President for Academic Affairs (VPAA), Dean of the Faculty (DOF), Dean of Special Programs (DSP), or any other division head) in consultation with the Director of Human Resources will consider the findings and determine the

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\* Work days are defined as days the College's administrative offices are open.

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appropriate action(s). The Associate Vice President for Finance and Administration and Director of Human Resources will work with the appropriate official to implement the actions.

### **I. Disposition of Complaint**

Once the written summary, findings, and conclusions have been reviewed with the appropriate official, the ADEWD will have a final interview with the complainant within 3 work days after the administrative review. During this interview, the ADEWD will share the summary, findings, and conclusions and issue a letter. The letter will only address the facts that were gathered and state whether any violation of the College's policies was found.

Within 3 work days after the administrative review, the appropriate official will meet with the respondent to outline the summary, findings, conclusions, and sanctions. Members of a union will have the option of having a shop steward present. All associated notes and documents developed by the appropriate official will be forwarded to Human Resources to be kept in the complaint file. All complaint files will be housed in Human Resources as legally required or as stipulated by the sanctions.

### **J. Outcomes**

Actions in response to a complaint of discrimination or harassment may include discussion, recommendation for counseling or mentoring, monitoring of the situation, support for self-help, or mediation by third party. Formal disciplinary actions may include (but are not limited to) a letter in the personnel file for a period of time, permanent letter in the personnel file, withholding of salary increases or stipends, suspension (with or without pay) or separation from the College.

### **K. Appeals**

#### Complainant

A complainant may appeal based on the following criteria: 1) procedural error that might have affected the outcome of the decision or 2) new evidence. If the complainant elects to appeal, he/she must file the appeal within 15 work days of the date of the final interview with the ADEWD.

#### Respondent

A respondent may appeal based on the following criteria: 1) procedural error that might have affected the outcome, 2) new evidence, or 3) severity of the sanction. If the respondent elects to appeal, he/she must appeal within 15 work days from the date of the respondent's meeting with the appropriate official. A respondent who is a member of a union, will follow the grievance procedure outlined in their collective bargaining unit agreement.

All appeals must be delivered in writing to the President, who will decide whether the appeal has merit based on the criteria listed above and who will make the final institutional decision based upon a review of the record and of the recommendations, findings, conclusions, and sanctions related to the complaint.

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The President will provide his or her decision in writing to the appellant, the other party to the original complaint as appropriate, the ADEWD, and the appropriate official. If the President reverses or modifies the recommendation(s), then the President will provide written reasons for the action. The President will make the decision within ten (10) work days of the President's receipt of the appeal.

### **VII. ADDITIONAL EXPECTATIONS**

#### **A. Cooperation with Investigations and Hearings**

All members of the Skidmore community (students, faculty, administrators, and staff) are expected to cooperate fully with inquiries and investigations pertaining to alleged incidents of harassment or discrimination. Expected cooperation includes providing full and honest disclosure of known facts, providing oral or written testimony, and providing letters, e-mails, voice messages, notebooks, gifts or other evidence in any such proceeding. Finally, cooperation includes the expectation that all parties to a complaint, inquiry, or investigation will maintain the confidentiality of the process and not attempt to influence any other party to the process.

#### **B. Extension of Time Periods**

If circumstances warrant, the College reserves the right to extend any processing time period identified in this policy.

#### **C. Retaliatory Actions**

Applicable law and College policy prohibit retaliation against any person reporting or thought to have reported harassment or discrimination. Retaliation is also prohibited against any person who is a witness or otherwise involved in a harassment or discrimination proceeding. Retaliation against any person shall be considered a serious violation of the policy on retaliation and shall be considered independently of the underlying complaint. Encouraging others to retaliate also violates this policy.

Examples of retaliation include (but are not limited to) the following:

- unfair evaluation of performance or assignments;
- withholding or delaying the transmissions of necessary information (work assignments, meetings);
- withholding notification about important events;
- withholding notification about changes in policies;
- exposing the person to public or private ridicule;
- making oral or written threats or offering bribes;
- refusing to meet with a person who has the right to be granted a meeting;

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- name calling;
- further harassment of any nature.

All instances of alleged retaliation should be reported to the ADEWD or an appropriate official. The allegations will be dealt with in accordance with the procedures outlined.

### **D. False Allegations**

The College will not tolerate false allegations of harassment. Complaints made in good faith that are found not to constitute harassment or discrimination will not be considered false allegations. However, any individual who knowingly, maliciously, or frivolously makes a false allegation of harassment will be subject to disciplinary action up to and including separation from the College or, in the case of a student, to disciplinary action up to and including suspension or expulsion.

### **E. For Additional Information or Assistance**

Inquiries concerning the preceding policies and procedures or requests for assistance should be directed to

Assistant Director for EEO and Workforce Diversity  
Skidmore College  
815 North Broadway  
Saratoga Springs, NY 12866-1632  
Tel: 518-580-5800  
<http://cms.skidmore.edu/hr/index.cfm>