

Policy #	Policy Name	Reso #	Date Approved
4-05	Affirmative Action and Equal Employment Opportunity Policy Statement	BR 13-117 BR 24-079	2013-09-19 Revised 2024-07-31

## **Affirmative Action and Equal Employment Opportunity Policy Statement**

The Board of Regents of Higher Education (“Board of Regents”) and Connecticut State Colleges and Universities (“CSCU”) are committed to leading, by example, in the areas of equal employment opportunity and affirmative action. The Board of Regents and the Connecticut State Colleges and Universities affirmatively seek to attract to its faculty, staff, and student body qualified persons of diverse backgrounds. Additionally, the Board of Regents commits to promote representative racial and ethnic diversity among its students, faculty, administrators, and staff at public institutions of higher education. Equal employment opportunity and affirmative action are essential to achieving public higher education’s goals of academic excellence and quality.

### **Equal Employment Opportunity**

The Board of Regents is an equal employment opportunity/affirmative action employer. To ensure that employees and job applicants are not subjected to unlawful discrimination, it is the Board of Regent’s policy statement to comply with all State and Federal laws and regulations that prohibit employment discrimination and mandate specific actions for the purpose of eliminating present and past discrimination. Equal employment opportunity is the purpose and goal of affirmative action.

In accordance with this Policy and as delineated by federal and Connecticut law, the Board of Regents deems equal employment opportunity to be the employment of individuals without consideration of actual or perceived age, ancestry, color, gender identity or expression, genetic information and/or family medical history, intellectual disability, learning disability, parental, family or marital status, past or present history of mental disability, physical disability, pregnancy or related conditions, race or national origin, religion or creed, sex, sexual orientation, veteran or military status, arrest and/or criminal conviction status, lawful source of income, citizenship or immigration status, status as a victim of domestic violence, workplace hazards to reproductive systems, or any other protected characteristic, including protections for those opposing discrimination or participating in any grievance process within the institution, with the Equal Employment Opportunity Commission and/or the Connecticut Commission on Human Rights and Opportunities (“CHRO”), or other factors that cannot lawfully be the basis for employment actions, unless there is a bona fide occupational qualification under applicable local, state, or federal law.

### **Affirmative Action**

Affirmative Action is a positive program of purposeful activity undertaken with conviction and effort to overcome present effects and past practices, policies, and barriers to equal employment opportunity. Affirmative action plans and programs are designed to achieve the full and fair participation of all protected class members found to be underutilized in the workforce or adversely affected by past policies and practice.

The Board of Regent's commitment to affirmative action requires that the System Office and each College and University within the Connecticut State Colleges and Universities System make good faith efforts that may be necessary in all aspects of personnel administration to ensure that the recruitment and hiring of underrepresented individuals reflect their availability in the job market; that the causes of underutilization are identified and eliminated; that alternative approaches are explored when personnel practices have a negative impact on protected classes; and, that the terms and conditions, and privileges of employment, including upward and lateral mobility, are equitably administered.

The Board recognizes the employment difficulties experienced by individuals with disabilities and by many older people. Therefore, the Board will take necessary steps to identify and overcome areas of underutilization of such people in the workforce and to achieve their full participation in all System programs, processes, and services.

The Board of Regents is committed to ensuring that all Connecticut State Colleges and Universities services and programs are provided in a fair and impartial manner and thus has established affirmative action and equal employment opportunity as immediate and necessary system-wide objectives.

Each College and University and the System Office prepares an annual Affirmative Action Plan. The Affirmative Action Plans must comply with Connecticut law and regulations, provide a detailed, results-oriented set of procedures that blueprints a strategy to combat discrimination and implement equal employment opportunity and affirmative action goals. The objective of the Affirmative Action Plans is to set quantitative and non-quantitative goals, that promote affirmative action and/or eliminate any policy or employment practice that adversely affects protected class members.

Complete versions of the Affirmative Action Plans for each College and University within the Connecticut State Colleges and Universities System, and the Affirmative Action Plan for the System Office can be found online at: <https://www.ct.edu/hr/nondiscrimination>.

The Board of Regent's policies and procedures against discrimination and harassment are included in the Affirmative Action Plans along with complaint procedures. Faculty, employees, students and other individuals participating in or attempting to participate in the CSCU's education programs or activities may file complaints of discrimination, harassment, retaliation or alleged violations of this Policy may do so by contacting:

Lori Lamb, Interim Assistant Vice Chancellor for HR & Labor Relations  
Phone: 860-723-0250  
Address: 61 Woodland St., Hartford, CT 06105

Faculty, employees, students and others shall not be subjected to harassment, intimidation or any type of retaliation because they have (1) filed a complaint; (2) assisted or participated in an investigation, compliance review, hearing or any other activity related to the administration of any

federal, state or local law requiring equal employment opportunity; (3) opposed any act or practice made unlawful by any federal, state or local law requiring equal opportunity; (4) exercised any other legal right protected by federal state or local law requiring equal opportunity.

## **Accountability**

The Board of Regents hereby commits to ensure that Connecticut State Colleges and Universities make every effort to implement effective Affirmative Action Plans within timetables set forth in such Plans. The Board of Regents fully expects the CSCU executive and supervisory staff to treat compliance with Federal and State of Connecticut affirmative action statutes as a top priority and take positive steps to ensure the successful implementation of the policies, procedures and objectives of affirmative action and equal opportunity throughout Connecticut State Colleges and Universities, including the System Office.

In issuing this **Affirmative Action and Equal Employment Opportunity Policy Statement**, the Board of Regents reiterates the need for affirmative action and equal opportunity and attests to the Connecticut State Colleges and Universities' determination to identify strengths and weaknesses throughout our employment system, resolve problems when they appear, recruit employees vigorously and affirmatively, and retain current employees while also helping them prepare for advancement.

# **CSCU** Board of Regents

## **CT BOARD OF REGENTS FOR HIGHER EDUCATION**

### **RESOLUTION**

concerning

#### **Implementation of CSCU Policies related to New Title IX Regulations**

- Interim Discriminatory Harassment, Nondiscrimination, and Title IX Policy
- Affirmative Action and Equal Employment Opportunity Policy Statement

**July 31, 2024**

**WHEREAS**, the Board of Regents (“Board of Regents”) and Connecticut State Colleges and Universities (“CSCU”) are committed to creating a learning environment and academic community that promotes educational opportunities for all individuals; and

**WHEREAS**, The Board of Regents and Connecticut State Colleges and Universities are committed to leading, by example, in the areas of equal employment opportunity and affirmative action, and affirmatively seek to attract to its faculty, staff, and student body qualified persons of diverse backgrounds; and

**WHEREAS**, The Affirmative Action and Equal Employment Opportunity Policy Statement has been updated to comply with federal and state laws and regulations regarding types of protected classes, and includes other technical revisions; and

**WHEREAS**, The United States Department of Education promulgated regulations under Title IX of the Education Amendments of 1972 (“Title IX”) and set forth certain specific requirements, which become effective on August 1, 2024; and

**WHEREAS**, The 2024 Title IX regulations have created an opportunity to realign and update CSCU Discriminatory Harassment, Nondiscrimination Title IX-related policies and procedures, and move to a unified policy to create one common community standard expectation for all members of the CSCU; and

**WHEREAS**, As there are numerous legal challenges underway in several states, other than Connecticut, that may affect the implementation of some or all the new Title IX regulations; and additional consultation with internal CSCU stakeholders is required to complete developing the related System-wide procedures to support the policies, with appropriate flexibility to accommodate the needs/staffing on specific campuses, it is advisable to title the Discriminatory Harassment, Nondiscrimination, and Title IX Policy as “Interim”; and

**RESOLVED**, that the Board of Regents approve the proposed revision to the “Affirmative Action and Equal Employment Opportunity Policy Statement” (BOR Policy 4-05); and be it further

**RESOLVED**, that the Board of Regents rescind the current Title IX Policy Statement (BOR Policy 4-11 dated 7-29-2020) and the current “Sexual Misconduct Reporting, Supporting Measures and Processes” Policy (BOR Policy 5-02 dated 7-29-2020) and adopt in their place the new Interim Discriminatory Harassment, Nondiscrimination, and Title IX Policy effective August 1, 2024.

**ITEM**

Recommendation to adopt the Interim Discriminatory Harassment, Nondiscrimination, and Title IX Policy and adopt the update to Affirmative Action and Equal Employment Opportunity Policy Statement.

**BACKGROUND**

The policy work before results from a convergence of issues that compel a comprehensive overhaul of policies dealing with Title IX, discriminatory harassment, nondiscrimination, and retaliation. The factors at play include:

- 1) The current CSCU policies have long needed updating to better comply with state and federal regulations and clarify and streamline policies and procedures for everyone involved.

CSCU staff have consistently expressed confusion and frustration with existing CSCU policies and procedures related to Title IX, non-discrimination, and Affirmative Action. In addition, there is confusion and conflicting information in the existing CSCU Title IX policy and the CSCU Student Code of Conduct. Currently, the CSCU System's Title IX policies comprise a patchwork across several Board policies, the Student Conduct Code, and employee policies. These policies have long needed revision to better support the commitment of the CSCU to provide an educational and employment environment that is free from discrimination and/or harassment based on protected characteristics, and/or retaliation. Ease of use helps not only students, faculty, and staff (and their advisors/supporters), but also those who must implement the policies and procedures on the individual campuses and in the System Office.

- 2) There has been a lack of clarity in policies and a lack of clear direction specifically around discriminatory harassment, nondiscrimination and retaliation.

CSCU current patchwork of policies does not adequately address harassment and/or discrimination and/or retaliation based on all protected characteristics beyond sex as is required under various federal and state laws. As such, this is an opportune time for CSCU to address the lack of clarity around these issues at the system-level and move to a unified policy to create one common community standard for all members of the CSCU.

- 3) On April 19, 2024, the U.S. Department of Education promulgated new Title IX regulations that take effect on August 1, 2024, and supersede prior regulations.

CSCU is now required to adjust policies and procedures related to Title IX to comply with these new regulations.

- 4) There was a committee convened by the previous Provost to review and update the Student Conduct Code.

The details of this work are being processed through the Academic and Student Affairs Committee. However, references to Title IX are being removed to eliminate confusion.

The following summary chart may help provide clarity regarding the various policy revisions underway:

<b>Current BOR Policy</b>	<b>Updated/New BOR Policy</b>	<b>BOR Committee</b>
Affirmative Action BOR Policy 4-05	Reviewed and updated language	Human Resources July 17, 2024
Title IX BOR Policy 4-11 (recommended for recission)	New Interim Connecticut State Colleges and Universities Discriminatory Harassment, Nondiscrimination, and Title IX Policy	Human Resources July 17, 2024
Sexual Misconduct Reporting, Supporting Measures and Processes BOR Policy 5-02 (recommended for recission)		
Student Code of Conduct BOR Policy 2-01	Interim Student Code of Conduct is revised to update the preamble, definitions and prohibited conduct sections, which includes additional language to address protests on campuses; removes self-harm language; and removes Title IX and sexual misconduct components.	Academic & Student Affairs July 18, 2024

It is important to note that there are numerous legal challenges underway in other states that may affect the implementation of some or all the new Title IX regulations. Despite these potential legal challenges, it is our recommendation to proceed given that our current existing policies are not truly adequate to support the work in these key areas, and that we do not even have a system level policy related to non-discrimination. These policy changes are necessary – now – to improve our support and services in these key areas.

Should the Board adopt these policies, we plan to continue our work, in particular, on the Interim Discriminatory Harassment, Nondiscrimination and Title IX Policy. We are already beginning the process of developing system wide procedures to support the policies, with appropriate flexibility to accommodate the needs/staffing on specific campuses. We will continue consulting with relevant stakeholders on the policies and impacts thereof. We will adjust, as necessary, to any legal decisions that may be forthcoming. Most importantly, we will be working on efforts to train all employees on the new policies and regulations as required by the U.S. Department of Education.

## ANALYSIS

The analysis centers on the key changes/updates/additions to the policies in question:

### **Summary of Major Changes Related to the Affirmative Action and Equal Employment Opportunity Policy Statement**

- The Affirmative Action and Equal Employment Opportunity Policy Statement has been updated to comply with federal and state laws and regulations regarding types of protected classes.
- The policy has been reformatted for reading clarity.
- Typos were corrected.
- Contact information has been updated (and will need to be updated again in the near future).

### **Summary of Major Changes Related to Interim Discriminatory Harassment, Nondiscrimination, and Title IX Policy**

The draft Interim Discriminatory Harassment, Nondiscrimination, and Title IX Policy addresses the following changes required to move CSCU from the 2020 Title IX regulations to the 2024 Title IX regulations, while retaining compliance with other federal laws (such as the Clery Act and VAWA) as well as state laws:

- *Expanded Definitions and Jurisdiction*: The 2024 Title IX regulations provide full protection from sex-based harassment and discrimination. The 2024 regulations expand the definitions of sex discrimination and sex-based harassment while also expanding Title IX jurisdiction. The 2024 amendments clarify the definition of sex-based harassment and the scope of sex discrimination to prohibit discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Another major change in the 2024 regulations is that it defines “sex-based harassment” as a form of sex discrimination that include sexual harassment and harassment based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity, that is quid pro quo harassment, hostile environment harassment, or one of four specific offenses of forms of interpersonal violence referenced in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act (“Clery Act”) as amended by the Violence Against Women Reauthorization Act of 2013. The 2024 regulations also require specific grievance procedures for allegations of sex/gender discrimination and retaliation to bring alignment and parity with grievance procedures used to resolve allegations of sexual harassment.
- *Sexual Orientation and Gender Identity*: The 2024 regulations now explicitly recognize that discrimination against LGBTQI+ students, employees, and others based on sexual orientation and gender identity are forms of discrimination under Title IX, bringing federal law into alignment with existing requirements under state law. The rule prohibits discrimination and harassment based on sexual orientation, gender identity, and sex characteristics in federally funded education programs. Note that the 2024 Title IX regulations do not address protections for transgender students in athletics. Instead, the



U.S. Department of Education indicates that the regulatory process for Title IX regulations related to athletics is still ongoing.

- *Pregnant and Parenting Students*: Although CSCU has policies protecting employees regarding pregnancy or related conditions, the 2024 Title IX regulations reemphasize that discrimination based on pregnancy or related conditions, including pregnant students and/or student or employee applicants, violates Title IX.
- *Evidentiary Standard of Proof*: The evidentiary standard of proof will be the preponderance of the evidence for determining whether a policy violation occurred. The preponderance of the evidence is currently the standard of proof in the BOR/CSCU Policy Regarding Sexual Misconduct Reporting, Supportive Measures and Process Policy and Title IX Grievance Procedures. Consistent with the 2024 Title IX regulations and Connecticut state law, the proposed Equal Opportunity, Harassment, and Nondiscrimination Policy ensures that all comparable proceedings equally apply the same evidentiary standard of proof in adjudicating a complaint.
- *Reporting Requirements*: All CSCU employees (including student-employees), other than those deemed Confidential Employees, are now expected to promptly report all known details of actual or suspected discrimination, harassment, and/or retaliation to the Title IX/Equity Coordinator and provide contact information for the Title IX/Equity Coordinator to affected individuals within the CSCU community.
- *Supportive Measures*: CSCU is permitted to provide supportive measures to a complainant or a respondent affected by conduct that may constitute sex discrimination, including sexual violence and other forms of sex-based harassment as long as such supportive measures are not unreasonably burdensome, are not provided for punitive or disciplinary reasons, and are designed to protect the safety of the parties or CSCU's educational environment or to provide support during the grievance procedures or during an informal resolution process.

The proposed Interim Discriminatory Harassment, Nondiscrimination, and Title IX Policy allows CSCU to have a commonly understood single standard prohibiting discrimination and/or harassment based on all protected characteristics. This will confer the following benefits:

- Prevent the “patchwork approach” of confusing, overlapping, out-of-date, and vague policies that could apply to faculty, staff, and/or students.
- Better manage risk with a consistent approach across all allegations of harassment and/or discrimination, so that CSCU institutions do not treat allegations of one kind of discrimination differently than other kinds of discrimination. Additionally, issues of

intersectionality of identity are increasingly present in this work (i.e., an individual who alleges discrimination based on more than one protected characteristic).

- Ease-of-use by practitioners across the CSCU system; consistently following policies and procedures is a key risk management issue and having a common policy and procedural framework for all to follow will enhance this goal.
- Transparency for the CSCU community regarding community standards and ease of training for faculty, staff, and students.

The 2024 Title IX regulations provide for much more flexibility regarding procedures, notably no longer requiring live hearings with advisor-led cross examination. Therefore, CSCU now can bring coherence to the procedures that CSCU institutions utilize to respond to reports and allegations of discrimination and/or harassment all with the common goal to stop the harassment/discrimination, prevent its recurrence, and remedy the effects of the harassment/discrimination. Under the supervision of Kim Pacelli as Interim Title IX Coordinator, and with legal guidance from the Office of General Counsel, CSCU practitioners are continuing to refine elements of a common procedural framework that will include:

- Clarity and ease of training for faculty and staff about their reporting responsibilities and when and where to report.
- Clarity and consistency regarding prompt follow-up following a report or disclosure, including ease conducting proper outreach and intake, clear communication to reporting individuals about resolution processes and options, ability to take quick emergency action when needed, and ease of providing immediate supportive measures, where appropriate.
- Adherence to key due process procedural requirements for formal resolution procedures under federal and state laws, as well as consistent with grievance procedures under collective bargaining agreements. Features will include:
  - Equitable treatment of complainants and respondents.
  - Conflict-of-interest and bias-free Title IX Coordinators, investigators, and decisionmakers.
  - Reasonably prompt timeframes for all major stages of the resolution process.
  - Presumption that a Respondent is not responsible until a determination is made.
  - Well-trained investigators, with flexibility to assign investigators as appropriate to address differences in institutional practices, structures, and resources.
  - Clarity regarding decision making, including ensuring that determinations regarding policy violations are made by well-trained individuals, and ensuring fidelity to existing requirements regarding sanctioning and remedies (when needed).
  - Reasonable steps to protect privacy of parties and witnesses during the grievance procedures

- Objective evaluation of relevant evidence and the exclusion of impermissible evidence.
  - Written notice of allegations to the parties and written determinations at the conclusion of the resolution process.
  - Burden on the recipient to gather evidence and decide what is relevant or impermissible.
  - Equal opportunity for the parties to present fact witnesses and other evidence.
  - Equal opportunity for the parties to access the relevant and not otherwise impermissible evidence and a reasonable opportunity to respond.
  - Access to advisors.
  - An appeal process.
- The procedural framework will also include hallmark elements that balance CSCU's ability to ensure that its program and activities are free from discrimination while respecting Complainant autonomy. These elements include:
    - Training for mandated reporters to ensure reports are vetted by Title IX/Equity Coordinators who can determine appropriate next steps that balance the need for autonomy against the safety concerns/concern for the community at-large.
    - Inclusion of a small subset of employees who are available to provide confidential assistance.
    - Enhanced features for privacy and confidentiality.
    - Reduced hurdles to informal resolution measures when appropriate and desired. Continued requirement that in cases that implicate patterns of behavior, safety concerns, minors, and more widespread impact, the institution may need to move forward with a formal grievance procedure.

### **Summary of Major Changes Related to the Student Code of Conduct**

Changes to the Student Code of Conduct are being handled through the Academic and Student Affairs Committee.

#### **Attachments:**

- Proposed updates to the Affirmative Action and Equal Employment Opportunity Policy Statement
- Proposed Interim Discriminatory Harassment, Nondiscrimination, and Title IX Policy

### **RECOMMENDATION**

Based on the above, staff recommends the following:

1. Adopt the Affirmative Action Policy Statement – revise BOR 4.05
2. Rescind the Board of Regents' Title IX Policy – BOR 4.02
3. Rescind the Board of Regents' Sexual Misconduct Policy – 5.02
4. Adopt new Interim Discriminatory Harassment, Nondiscrimination, and Title IX Policy