POLICY ON NONDISCRIMINATION, GRIEVANCE PROCESS AND CIVIL RIGHTS INVESTIGATION PROTOCOL

Whittier College
July 28, 2011
Table of Contents

I  Introduction..................................................................................................................2
   A. Notice of Nondiscrimination...................................................................................2
   B. Designated College Officers............................................................................2
   C. Notice to Community...............................................................................................4
   D. Notice to Applicants...............................................................................................4

II  Civil Rights Grievance and Investigation Process.........................................................5
   A. Definitions...............................................................................................................5
   B. Complaints Concerning Discrimination and/or Harassment...............................7

III Informal and Formal Grievance Procedure for Student Complaints................................9
   A. Informal Dispute Resolution Efforts: A Necessary First Step Before Filing Formal
      Complaints...........................................................................................................9
   B. Formal Grievance Process....................................................................................9
   C. Appeals.................................................................................................................11
   D. Elaboration on Student Participation in the Grievance Process..........................12
   E. Time frame and Grounds for Filing an Appeal....................................................12
   F. Special Grievance Process Provisions.................................................................13
      1. Attempted Violations........................................................................................13
      2. College as Complainant....................................................................................13
      3. False Reports....................................................................................................13
      4. Immunity for Victims......................................................................................14
      5. Bystander Engagement....................................................................................14
      6. Parental Notification.......................................................................................14
      7. Notification of Outcomes................................................................................14
      8. Alternative Testimony Options........................................................................15
      9. Past Sexual History/Character.......................................................................15
     10. Retaliation.........................................................................................................15
   G. Disciplinary Actions...............................................................................................15
   H. Confidentiality.......................................................................................................16
   I. Location of Records...............................................................................................17
IV Training, Education, and Prevention...........................................................................17
V Statement of the Rights of the Alleged Victim.............................................................18
VI Statement of the Accused Individual’s Rights............................................................21
VII Resources.................................................................................................................22
I. Introduction

Whittier College (the College) is a community of students, faculty, staff and administrators dedicated to teaching, learning, service and scholarship. To accomplish this goal, Whittier College is committed to providing an educational and employment setting that is respectful and will not tolerate discrimination and sexual harassment. To actualize this commitment, Whittier provides an environment which encourages intellectual exploration in the context of a supportive community. The work and academic environments must be ones in which employees and students can pursue their work free from coercion, intimidation, and exploitation. Discrimination undermines the community that the College seeks to maintain. Whittier College is dedicated to an environment free of discrimination and sexual harassment.

A. Notice of Nondiscrimination

Whittier College admits students of any race, color, national or ethnic origin with all the rights, privileges, and activities generally accorded to or made available to students at the school. It does not discriminate on the basis of race, color, marital status, age, sexual orientation, national or ethnic origin, creed or religion in the administration of its’ educational policies, admissions policies, scholarship and loan programs, or athletic and other school-administered programs. Whittier College does not discriminate on the basis of disability in admission or access to its’ programs.

B. Designated College Officers

The Title IX Campus Compliance Coordinator is:

David Henry, Acting Director of Human Resources, 004 Mendenhall, 562-907-4230.

The designated College Grievance Officers for complaints are:

Complaints made by or related to College Faculty:

Dr. Charlotte Borst, Vice President for Academic Affairs and Dean of the Faculty, Mendenhall, 562-907-4204.

Complaints made by College Students against College Students:

Dr. Jeanne Ortiz, Vice President and Dean of Students, 42 Campus Center, 562-907-4233.
Complaints made by or related to College Support or Administrative Staff:

James Dunkelman, Vice President for Finance and Administration, Mendenhall, 562-907-4205.

Grievance Officer for Complaints related to Law School Faculty and Staff:

Dean Bryan, Dean of Whittier Law School, 714-444-4141-x210

Complaints made by or related to Student Employment:

Linda Ross, Director of Career Planning and Internships, 230 Campus Center, 562-907-4415.

Complaints made by applicants or related to Admissions or Financial Aid:

Fred Pfursich, Vice President for Enrollment Management, 119 Weingart Hall, 562-907-4263.

Complaints made by students, applicants or related to Student Athletics:

Shelley Whitaker, Senior Administrator, Graham Athletic Center, 562-907-4935.

Complaints made by students or applicants against Broadoaks School Staff:

Sandy Ruiz, Assistant Director for Administration, for Broadoaks Children's School, Whittier College Office: 562-907-4250

Complaints made by students related to Faculty:

Dr. Charlotte Borst, Vice President for Academic Affairs and Dean of the Faculty, Mendenhall, 562-907-4204.

Complaints made by students related to Support or Administrative Staff:

Maritza Magallanes, Human Resources Manager, Mendenhall Lower Level, 562-464-4583.
Whittier Law School

Complaints made by students and applicants against Admission and Financial Aid Staff:

Thomas McColl, Assistant Dean, Admission and Financial Aid, 714-444-4141-x283

Complaints made by Students against Students:

Nidhi Parikh, Assistant Dean of Students and Alumni Relations, 714-444-4141-x122

Complaints made by students related to Staff or Faculty:

Maritza Magallanes, Human Resources Manager, Lower Level Mendenhall, 562-464-4583.

C. Notice to Community

At the beginning of each academic year the Director of Human Resources will communicate via email to faculty, staff, and administration, and the Vice President and Dean of Students will communicate via email to students, how to access the College policy on nondiscrimination on the College website. This notification will include names of persons designated to respond to allegations of discrimination.

D. Notice to Applicants

The Director of Human Resources will provide all applicants for faculty, staff, and administrative positions with a copy of the Policy on Nondiscrimination and Complaint Procedures.

The Vice President for Enrollment Management will provide student applicants with a copy of the Policy on Nondiscrimination and Complaint Procedures for any applicant who asserts that he or she was denied admission based on discrimination.
II. Civil Rights Grievance and Investigation Process

A. Definitions

Sexual Harassment: Unwelcome, gender-based verbal or physical conduct which is sufficiently severe, pervasive and objectively offensive that it unreasonably interferes with, limits or deprives someone of the ability to participate in or benefit from the College’s educational program based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation. Examples include but are not limited to: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwanted sexual attention; to punish a refusal to comply; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence, stalking; gender-based bullying.

Three Types of Sexual Harassment

1. Hostile Environment includes any situation in which there is harassing conduct that is sufficiently severe, pervasive/persistent and patently/objectively offensive that it alters the conditions of education or employment, from both a subjective (the alleged victim’s) and an objective (reasonable person’s) viewpoint.

The determination of whether an environment is “hostile” must be based on all of the circumstances. These circumstances include:

a. the frequency of the conduct;
b. the nature and severity of the conduct;
c. whether the conduct was physically threatening;
d. whether the conduct was humiliating;
e. the effect of the conduct on the alleged victim’s mental or emotional state;
f. whether the conduct was directed at more than one person;
g. whether the conduct arose in the context of other discriminatory conduct;
h. whether the conduct unreasonably interfered with the alleged victim’s educational or work performance;
i. whether the statement is a mere utterance of an epithet which engenders offense in an employee or student, or offends by mere discourtesy or rudeness; and
j. whether the speech or conduct deserves the protections of academic freedom.

2. Quid pro quo sexual harassment exists when there are:
a. unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and
b. submission to or rejection of such conduct results in adverse educational or employment action.

3. Retaliatory harassment is any adverse employment or educational action taken against a person because of the person’s participation in a complaint or investigation of discrimination or sexual misconduct.

**Discrimination:** Is any distinction, preference, advantage for or detriment to an individual compared to others that is based upon race, color, age, creed, ethnic or national origin or status, religion, physical or mental disability, veteran status, pregnancy, marital status, or sexual orientation that is sufficiently serious that it interferes with or limits a student’s ability to participate in or benefit from the College’s educational program.

**Discriminatory Harassment:** Detrimental action based on an individual’s actual or perceived gender, race, color, age, creed, national or ethnic origin, religion, physical or mental disability, veteran status, pregnancy status, sexual orientation or other protected status that is so severe, pervasive and objectively offensive that it interferes with or limits a student’s ability to participate in or benefit from the College’s educational program.

**Sexual Harassment of a Student by Another Student:** Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a student toward another student that is so severe, pervasive and objectively offensive that it interferes with or limits a student’s ability to participate in or benefit from the College’s educational program.

**Sexual Harassment of a Faculty/Staff Member by a Student:** Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature directed by a student toward a faculty/staff member that is so severe, pervasive and objectively offensive that it interferes with or limits a student’s ability to participate in or benefit from the College’s educational program.

**Sexual Harassment of a Student by a Faculty/Staff Member:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a faculty or staff member toward a student are held to constitute sexual harassment when:

- Submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating an individual’s educational development or performance; or
- Such conduct is so severe, pervasive and objectively offensive that it interferes with or limits a student’s ability to participate in or benefit from the College’s educational program.
While a particular interaction must be offensive to both a reasonable person and to the victim to be defined as harassment, faculty and staff members and other persons of authority should be sensitive to questions about mutuality of consent that may be raised and to the conflict of interests that are inherent in personal relationships that result from professional and educational interactions. Harassment in any situation is reprehensible; it is particularly damaging when it exploits the educational dependence and trust between students and faculty/staff. When the authority and power inherent in faculty/staff relationships with students, whether overtly, implicitly, or through misinterpretation, is abused in any way, there is potentially great damage to the individual student, to the accused individual, and to the climate of the College.

Sexual Misconduct: Misconduct occurs when the act is committed without intent to harm another and where, by failing to correctly assess the circumstances, a person believes unreasonably that effective consent was given without having met his/her responsibility to gain effective consent.

Sexual Assault: Sexual assault occurs when the act is intentional and is committed either by 2) physical force, violence, threat, or intimidation; b) ignoring the objections of another person; c) causing another intoxication or impairment through the use of drugs or alcohol; or d) taking advantage of another person’s incapacitation, state of intimidation, helplessness, or other inability to consent. Sexual assault is any type of sexual activity that is not agreed to, including but not limited to such things as inappropriate touching, vaginal, anal or oral penetration, sexual intercourse without consent, child molestation, attempted rape and rape.

B. Complaints Concerning Discrimination and/or Harassment

The College does not discriminate or harass in our programs and activities on the basis of race, color, national origin, sex, gender identity, sexual orientation, disability, age, religion, or any other characteristic protected by state, local, or federal law. Students who believe they have been subjected to discrimination or harassment in violation of this policy should follow the procedure outlined in this Policy to report these concerns. This process involves an immediate initial investigation to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the College will initiate a thorough, impartial investigation designed to provide a fair, prompt, and reliable determination about whether the College’s nondiscrimination policy has been violated. If a determination is made that the Policy has been violated, the College will implement a prompt and effective remedy designed to end the discrimination, prevent its recurrence and address its effects. Students who wish to report a concern or complaint relating to discrimination or harassment may do so by reporting the concern to the Grievance Coordinator: Jeanne Ortiz, Vice President and Dean of Students, 42 Campus Center, 562-907-4233.
Individuals with complaints of this nature also always have the legal right to file a formal complaint with the United States Department Education:

Office for Civil Rights (OCR)
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: http://www.ed.gov/ocr
III. Informal and Formal Grievance Procedure for Student Complaints

This procedure is intended to apply to civil rights student grievances against employees, employee civil rights grievances against students, and student-against-student civil rights grievances.

The College community benefits from formal and informal procedures that encourage prompt resolution of complaints and concerns that students may have about the implementation of policies and procedures that govern the institution.

A. Informal Dispute Resolution Efforts: A Necessary First Step Before Filing Formal Complaints

Before pursuing the formal complaint process, every reasonable effort should be made to constructively resolve issues with faculty, staff, administrators, or students. Whenever possible and safe, the problem or complaint should first be discussed with the individual involved in the complaint. If satisfactory resolution is not reached after discussion with the individual, and that individual is a member of the faculty, staff, or administration, the student should contact the individual’s direct supervisor to attempt to resolve the complaint. If these efforts are unsuccessful, or the individual is a student, the formal complaint process may be initiated. The College does not require a student to contact the person involved or that person's supervisor if doing so is impracticable, or if the student believes that the conduct cannot be effectively addressed through informal means.

B. Formal Grievance Process

The Associate Dean of Students (or designee) is designated to formally investigate student grievances, address inquiries and coordinate the College’s compliance efforts regarding student complaints and grievances. The College’s Human Resources Manager is designated to formally investigate staff and administrator complaints and grievances. The Director of the Career Planning and Internships Office is responsible for investigating student employment complaints. The College’s Dean of Faculty is designated to formally investigate faculty complaints and grievances and the Senior Athletics Administrator is responsible for investigating complaints and grievances by student athletes.

Notice of a formal complaint can be made in person or orally to the appropriate office, but the College strongly encourages that a grievance be submitted [in writing, by email attachment as a MS Word or pdf document, in other written form] to the applicable designated Title IX Grievance Officer as previously stated in this policy.
The grievance should clearly and concisely describe the alleged incident(s), when and where it occurred, and the desired remedy sought. [The phrase, “This constitutes a formal grievance” should be included in the subject line of the grievance. If the grievance does not contain this phrase, the College will seek written confirmation of the initiator's intent before proceeding with an investigation.]

The grievance should be signed by the initiator or, in the case of an email submission, sent as an email attachment, in letter format and should contain the name and all contact information for the grievant. Any supporting documentation and evidence should be referenced within the body of the formal grievance. Additionally, the initiator of a formal grievance should submit any supporting materials in writing within fifteen (15) business days of submitting the grievance. Extensions will only be granted by permission of the investigating College official.

The grievant’s supporting documentation should clearly demonstrate all informal efforts, if any, to resolve the issue(s) with the person involved and the person's supervisor. This includes, names, dates and times of attempted or actual contact along with a description of the discussion and the manner of communication made in the course of each effort. If contacting the person involved and/or the supervisor is impracticable, the initiator should state the reasons why.

Upon receipt of a grievance, the appropriate College official will open a formal case file and assign a Case Officer who will direct the investigation and confer with the Title IX Coordinator on interim action, accommodations for the alleged victim, or other necessary remedial short-term actions.

The Case Officer will then take the following steps and conduct the investigation within 20 business days:

- Determine the identity and contact information of the complainant, whether that will be the initiator, the alleged victim, or a College proxy or representative;
- Collaborate with the complainant to identify the correct policies allegedly violated;
- Conduct an immediate initial investigation to determine if there is reasonable cause to charge the accused individual, and what policy violations should be alleged as part of the complaint. If there is insufficient evidence to support reasonable cause, the grievance should be closed with no further action;
- Collaborate with the complainant to finalize the complaint and prepare the notice of charges on the basis of the initial investigation;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, verbatim record of any hearings, and order of interviews for all
witnesses and the accused individual, who may be given notice before or at the
time of the interview;
• Complete the investigation promptly, and without unreasonable deviation from
the intended timeline;
• Make a finding, based on a preponderance of the evidence (whether a policy
violation is more likely than not);
• Present the findings to the accused individual, who may accept the findings,
accept the findings in part and reject them in part, or may reject all findings;
• Provide written notification of the findings and update the complainant on the
status of the investigation and outcome, including a summary of the facts, legal
basis, and information concerning the actions to be taken to remedy any harm if
discrimination is found.

Where the accused individual is found not responsible for the alleged violation(s), the
investigation should be closed. Where the accused individual accepts the finding that
they violated College policy, the appropriate Case Officer will impose appropriate
sanctions for the violation, after consultation with the Title IX Coordinator. The College
will act to end the discrimination, prevent its recurrence, and remedy its effects on the
victim and the College community.

C. Appeals

In the event that the accused individual rejects the findings in part or in totality, Title IX
Compliance Coordinator will convene a meeting under its respective procedures to
determine whether the accused individual is in violation of the contested aspects of the
complaint. At the meeting, the findings of the investigation will be admitted, but are
not binding on the decider(s) of fact. The Case Officer(s) may give evidence. The
meeting will determine whether it is more likely than not that the accused individual
violated the policies supporting the complaint. The goal of the meeting is to provide an
equitable resolution via an equitable process, respecting the civil and legal rights of all
participants.

The Title IX Compliance Officer has final decision making authority in regards to formal
complaints, subject to appeal. Where an accused individual is found in violation, the
Title IX Compliance Coordinator will impose appropriate sanctions for the violation. The
College will act to end the discrimination, prevent its recurrence, and remedy its effects
on the victim and the College community. Appeal proceedings as described in this
Policy will apply to all parties to the complaint.
D. Elaboration on Student Participation in the Grievance Process

The Case Officer will contact or request a meeting with the initiator of the formal grievance and the complainant. The Case Officer also may contact or request a meeting with relevant College staff or others as part of the investigation. The initiator of the grievance may request to meet and discuss the allegations of the grievance with the Case Officer and may offer any documentation, witnesses, or other materials in support of the complaint. The complainant has the option to have an advocate present during a meeting with the Case Officer to discuss the documentation submitted by the student in support of the grievance. Such an advocate must be a member of the College Community: student, faculty member, academic advisor, or staff member, unless leave is given by the case officer upon request for an advocate from outside the College community. The student must advise the Case Officer of the identity of an advocate or witness at least two business days before the date of the meeting with the Case Officer. During a meeting with the Case Officer, an attorney acting as a lawyer may not serve as the student’s advocate or formally represent the student. These procedures are entirely educational in nature and are not considered legal proceedings. No legal representation allowed. At the Case Officer’s discretion, the Case Officer may eject anyone disrupting the meeting from the discussion.

E. Time Frame and Grounds for Filing an Appeal

The decision of Case Officer may be appealed by petitioning the Title IX Compliance Coordinator. The accused or complainant may petition within three (3) business days of receiving the written decision for the review of the decision or the sanction imposed. Such petitions must be submitted [by email attachment as a Word or pdf document] to [appropriate grievance resources]. If the Title IX Compliance Coordinator determines that one of the five bases for appeal below has been met, he/she may either re-open the hearing to allow reconsideration of the original determination and/or sanction(s) or will refer the matter back to case officer. The Title IX Compliance Coordinator serves as the final level of review in the conduct matter. Except as required to explain the basis of new evidence, an appeal to the Title IX Compliance Coordinator will be limited to review of the verbatim record of the initial hearing and supporting documents for one or more of the following:

- To consider new evidence, unavailable during the original hearing or investigation, that could be outcome determinative;
- To assess whether a material deviation from written procedures impacted the fairness of the hearing;
- To decide if a sanction(s) is grossly disproportionate to the severity of the offense;
- To determine that the finding does not accord with the preponderance of the evidence;
- To assess whether bias of investigators or the hearing board deprived the process of impartiality.
Every opportunity should be taken to return the complaint to the Case Officer for reconsideration, where possible. On appeal by any party to the complaint, the Title IX Compliance Coordinator may support or change a decision, increase, decrease or modify a sanction. An appeal is not a rehearing, though witnesses may be called or parties questioned as necessary. The Title IX Compliance Officer will be deferential to the original decision makers, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.

The Title IX Compliance Coordinator will render a written decision on the appeal to all parties within seven (7) business days* from hearing of the appeal. The Title IX Compliance Officer’s decision is final.

*Business day is defined to mean normal operating hours, Monday through Friday, excluding recognized national holidays. In cases where additional time is needed in the investigation of a complaint, students will be notified accordingly. The College reserves the right to make changes and amendments to this policy and procedure as needed, with appropriate notice to the community.

F. Special Grievance Process Provisions

1. Attempted violations

In most circumstances, the College will treat attempts to commit any of the violations listed in the Student Code of Conduct, Employee Handbook, or Faculty Handbook as if those attempts had been completed.

2. College as Complainant

As necessary, the College reserves the right to initiate a complaint, to serve as complainant, and to initiate conduct proceedings without a formal complaint by the victim of misconduct. The College shall make every effort to investigate alleged incidents of harassment and discrimination even if no report is filed.

3. False Reports

The College will not tolerate intentional false reporting of incidents. It is a violation of College policy to make a false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.
4. **Immunity for Victims**

The College community encourages the reporting of violations and crimes by victims. Sometimes, victims are hesitant to make such reports because they fear that they themselves may be accused of policy violations. It is in the best interests of this community that as many victims as possible choose to report to College officials. To encourage reporting, the College pursues a policy of offering victims of crimes amnesty from policy violations related to the incident.

5. **Bystander Engagement**

The welfare of all members in our community is of paramount importance. At times, community members on and off-campus may need assistance. The College encourages community members to offer help and assistance to others in need. Sometimes, community members are hesitant to offer assistance to others, for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to Campus Safety). The College pursues a policy of full immunity for students who offer help to others in need. [While policy violations cannot be overlooked, the College will provide educational options, rather than punishment, to those who offer their assistance to others in need.]

6. **Parental Notification**

The College reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The College will also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is not-dependent, the College will contact parents/guardians to inform them of situations in which there is a health and/or safety risk. The College also reserves the right to designate which College officials have a need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act.

7. **Notification of Outcomes**

The outcome of a campus hearing is part of the educational record of the accused student, and is protected from release under a federal law, FERPA. However, the College observes the legal exceptions as follows:

- Complainants in non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and relationship violence incidents have an absolute right to be informed of the outcome and sanctions of the hearing, in writing, without condition or limitation.
• The College may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a College policy that is a “crime of violence,” including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property and kidnapping/abduction. The College will release this information to the complainant in any of these offenses regardless of the outcome.

8. Alternative Testimony Options

For sexual misconduct complaints, and other complaints of a sensitive nature, whether the alleged victim is serving as the complainant or as a witness, alternative testimony options will be given, such as placing a privacy screen in the hearing room, or allowing the alleged victim to testify from another room via closed circuit. While these options are intended to help make the alleged victim more comfortable, they are not intended to work to the disadvantage of the accused individual.

9. Past Sexual History/Character

The past sexual history or sexual character of a party will not be admissible by the other party in hearings unless such information is determined to be highly relevant by the Case Officer. All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be included in the complaint/response or a subsequent written request, and must be reviewed in advance of the hearing by the Case Officer. While previous conduct violations by the accused are not generally admissible as information about the present alleged violation, the Case Officer may consider it him/herself if s/he is hearing the complaint, only if:

1) The accused was previously found to be responsible;
2) The previous incident was substantially similar to the present allegation;
3) Information indicates a pattern of behavior and substantial conformity with that pattern by the accused individual.

10. Retaliation

It is a violation of this Policy for any member of the College community to retaliate against any person who has filed a formal complaint or sought advice through the process described in this document. It is also in violation to retaliate against anyone who has participated in any manner in such processes. This applies to all accused and all witnesses.

G. Disciplinary Actions

The College will intervene promptly and effectively to put an end to discrimination and sexual harassment. The accommodation or sanction will be consistent with the seriousness
of the offense and will be designed and imposed in a manner reasonably calculated to end
the harassment and to persuade members of the campus community to refrain from
unlawful conduct. Possible accommodations for a complainant may include one or more of
the following at the College’s sole discretion:

- Removing the responsible person from the environment (or removing the
  complainant from the environment) with the assurances that the person found
  responsible will not be in a position to retaliate, judge the complainant’s
  performance, or influence the judging of the complainant’s performance.
- In cases where the complainant is a student and the respondent is a faculty
  member, moving the complainant to a new class or having the complainant’s course
  work evaluated by another professor in the same department.
- In cases where both complainant and person responsible are students, moving the
  responsible student or the complainant to a different residence hall, class section or
  work environment, or suspension of the responsible student until the complainant
  has left the College.
- In cases where both complainant and the responsible individual are employees, a
  change of work hours or moving the respondent or responsible individual to another
  department.

Disciplinary sanctions may consist of one or any combination of the following in the sole
discretion of the College and in accordance with its policies:

- Verbal warning;
- Written warning;
- Performance of community service;
- Completion of an educational program;
- A letter in the individual’s personnel or student file;
- Probation;
- Suspension;
- Expulsion; and
- Termination of Employment

H. Confidentiality

The College recognizes the sensitive nature of discrimination and sexual harassment
complaints, both for the complainant and the accused. Both parties are entitled to as
private a resolution of informal and formal complaints as can be afforded. The College
expects all members of the College community to respect the right of the parties and the
private nature of these issues.

Any person named in the policy, whether by name of position, with an official role, as
participants in the processes established by this Policy, shall not disclose any information
relating to any complaint of discrimination or sexual harassment to anyone who does not
have a legitimate need to know in order to implement this policy. Designated Case Officers
who receive informal and formal complaints, should, at the initiation of each stage, discuss with complainants and accused the extent to which their discussions may be kept confidential under this Policy.

While efforts will be made to communicate information about alleged discrimination and sexual harassment only to those who have a legitimate need to know, there may be situations where the designated Case Officer or other College officer will be required to make appropriate disclosures in order to eliminate a threat of imminent harm to a complainant or other members of the College community.

I. Location of Records

If the investigation following any complaint does not result in a finding of a violation of this Policy, the records relating to the complaint and the investigation will not become a part of any individual’s personnel or student record. If the accused is found to have violated this Policy, those records of the case will become part of the permanent personnel or student file of the person responsible. Records of all complaints and their resolutions will be kept by the Title IX Coordinator for seven years. Access to personnel and student files, and the records maintained by the Title IX compliance officer, is limited by Title IX, the Family Educational Rights and Privacy Act (Buckley Amendment), and various state statutes and common law. These restrictions on the disclosure are designed to protect students, employees, and The College. Questions regarding access to records may be directed to the Title IX Compliance Officer/Director of Human Resources.

IV. Training, Education, and Prevention

The College administers a program to promote an environment on campus in which all members of the College community can function free of discrimination and sexual harassment. Educational activities will be conducted regularly of all members of the College community, including College officers, department chairpersons, supervisors, faculty members, staff members and students. The Office of Human Resources shall be in charge of coordinating the training of designated all College employees and faculty, Title IX Coordinator, 504 Coordinator, ADA Coordinator, Grievance Officers, Case Officers, and College Conduct Board members in collaboration with the Vice President for Academic Affairs and Dean of the Faculty, Vice President for Finance and Administration, Vice President and Dean of Students, and Vice President for Enrollment Management, Director of Career Planning and Internships and the Athletic Senior Woman Administrator.

All College officers, department chairpersons, and supervisors share the responsibility to take educational and preventive steps in their areas. Examples of these steps include:

1. Distributing educational materials on the College policy;
2. Raising the subject of discrimination and sexual harassment at faculty meetings, staff meetings, orientation sessions, society and club meetings, residence hall meetings each academic year, and at other appropriate occasions;

3. Expressing strong disapproval of sexual harassment at such meetings and when incidents of discrimination or sexual harassment occur;

4. Incorporate education on sexual harassment policies and procedures into new student orientation;

5. Informing members of the College community of their right to raise the issue and how to raise the issue;

6. Developing methods to sensitize members of the College community;

7. Urging caution with respect to consensual sexual relationships in circumstances where there is an imbalance of power (formal or informal), particularly when one of the parties has academic or supervisory authority over the other; and

8. Enforcing appropriate sanctions set out in this policy.

V. Statement of Rights of the Alleged Victim

Subject to other provisions in this Policy, alleged victims of discrimination or sexual harassment have the following rights:

- The right to an investigation and appropriate resolution of all credible complaints of misconduct made in good faith to College administrators;

- The right to be treated with respect by College officials;

- The right of both accuser and accused to have the same opportunity to have others present (in support or advisory roles) during the meeting/hearing process;

- The right not to be discouraged by College officials from reporting alleged violations to both on-campus and off-campus authorities;

- The right to be informed of the outcome and sanction of any hearing involving sexual assault, usually within 24 hours of the end of the hearing;

- The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by
campus authorities in notifying such authorities, if the student so chooses. This also includes the right not to report, if this is the victim’s desire;

- The right to be notified of available counseling, mental health or services for victims of sexual assault, both on campus and in the community;

- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available (no formal complaint, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
  --Change of an on-campus student’s housing to a different on-campus location;
  --Assistance from university support staff in completing the relocation;
  --Arranging to dissolve a housing contract and pro-rating a refund;
  --Exam (paper, assignment) rescheduling;
  --Taking an incomplete in a class;
  --Transferring class sections;
  --Temporary withdrawal;
  --Alternative course completion options.

- The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing;

- The right not to have any complaint of sexual assault mediated (as opposed to adjudicated);

- The right to make a victim-impact statement at the campus conduct proceeding and to have that statement considered by the Case Officer in determining its sanction;

- The right to a campus restraining order against another person who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complaining individual or others;

- The right to have complaints of sexual misconduct responded to quickly and with sensitivity by Campus Safety.

- The right to appeal the finding and sanction of the Case Officer, in accordance with the standards for appeal established by the College;

- The right to review all documentary evidence available regarding the complaint, subject to the confidentiality limitations imposed by state and federal law, at least 48 hours prior to the meeting/hearing;
• The right to be informed of the names of all witnesses who will be called to give testimony, within 48 hours of the meeting/hearing, except in cases where a witness’ identity will not be revealed to the accused for compelling safety reasons (this does not include the name of the alleged victim/complainant, which will always be revealed);

• The right to preservation of privacy, to the extent possible and allowed by law;

• The right to a hearing closed to the public;

• The right to petition that the Case Officer be removed on the basis of demonstrated bias;

• The right to bring a victim advocate or advisor to all phases of the investigation and meeting/hearing;

• The right to give testimony in the meeting/hearing by means other than being in the same room with the accused individual (closed circuit live audio/video is the recommended method);

• The right to present relevant witnesses to the meeting/hearing, including expert witnesses;

• The right to be fully informed of campus conduct rules and procedures as well as the nature and extent of all alleged violations contained within the complaint;

• The right to have the College compel the presence of student, faculty and staff witnesses, and the right to ask questions, directly or indirectly, of witnesses (including the accused), and the right to challenge documentary evidence.

• The right to be present for all testimony given and evidence presented before a meeting/hearing;

• The right to have complaints involving sexual misconduct or sexual harassment heard by a Case Officer who has received annual sexual misconduct adjudication training;

• The right to have College policies and procedures followed without material deviation;

• The right to be informed in advance of any public release of information regarding the complaint;

• The right not to have released to the public any personal information about the complainant, without his or her consent.
VI. **Statement of the Accused Individual’s Rights**

Subject to other provisions in this Policy, persons accused of discrimination or sexual harassment has the following rights:

- The right to an investigation and appropriate resolution of all credible complaints of misconduct or discrimination made in good faith to College administrators against the accused individual;

- The right to be treated with respect by College officials;

- The right to be informed of and have access to campus resources for medical, counseling, and advisory services;

- The right to be fully informed of the nature, rules and procedures of the campus investigative process and to timely written notice of all alleged violations within the complaint, including the nature of the violation and possible sanctions;

- The right to a meeting/hearing on the complaint, including timely notice of the date, and adequate time for preparation;

- The right not to have irrelevant prior sexual history admitted as evidence in a meeting/hearing;

- The right to make an impact statement at the campus meeting/hearing and to have that statement considered by the Case Officer in determining its sanction;

- The right to appeal the finding and sanction of the Case Officer in accordance with the standards for appeal established by the institution;

- The right to review all documentary evidence available regarding the complaint, subject to the confidentiality limitations imposed by state and federal law, at least 48 hours prior to the hearing;

- The right to be informed of the names of all witnesses who will be called to give testimony, within 48 hours of the meeting/hearing, except in cases where a witness’ identity will not be revealed to the accused student for compelling safety reasons (this does not include the name of the alleged victim/complainant, which will always be revealed);

- The right to a hearing closed to the public;

- The right to petition that the Case Officer be removed on the basis of bias;
• The rights to have the College compel the presence of student, faculty and staff witnesses, and the right to ask questions, directly or indirectly, of witnesses, and the right to challenge documentary evidence.

• The right to have complaints involving sexual misconduct or sexual harassment heard by a Case Officer who has received annual sexual misconduct adjudication training;

• The right to have College policies and procedures followed without material deviation;

• The right to have an advisor or advocate to accompany and assist in the campus meeting/hearing process. This advisor can be anyone, [optional: including an attorney (provided at the accused individual’s own cost)], but the advisor may not take part directly in the hearing itself, though they may communicate with the accused individual as necessary;

• The right to a fundamentally fair meeting/hearing, as defined in these procedures;

• The right to an outcome based solely on evidence presented during the conduct process. Such evidence shall be credible, relevant, based in fact, and without prejudice;

• The right to written notice of the outcome and sanction of the meeting/hearing;

• The right to be informed in advance, when possible, of any public release of information regarding the complaint.

VII. Resources


Occidental College, Harassment Policy, College website, 2010.