

THE COLLEGE OF CHARLESTON

SECTION: Human Relations

Date Issued: 7/1/1995

Revised: 3/15/2006

SUBJECT: Prohibition of Discrimination, Harassment (Including Sexual Harassment), and Abuse

APPLIES TO: All Employees (whether faculty or member of the staff or administration) and Students

ISSUED BY: College of Charleston Human Relations and Sr. Vice President for Academic Affairs

POLICY

PROHIBITION OF DISCRIMINATION AND HARASSMENT, INCLUDING SEXUAL HARASSMENT AND ABUSE (See also the related policy “Reporting Responsibilities for Discrimination, Harassment, and Abuse”)

The College is committed to the goal of providing an environment free of discrimination, harassment or abuse of any kind for students and employees. Sexual harassment and/or harassment of students or employees (whether faculty or members of the staff or administration) based on sex, gender, age, race, color, religion, national origin or disability are prohibited as defined by law and contradictory to the College's policy and philosophy. The Uniformed Services Employment and Reemployment Rights Act (USERRA) also provides certain protected status rights arising from past or present membership or obligation to serve in the uniformed services under circumstances provided by the Act. As to students under age 18, abuse, as defined below and under state law, may or may not overlap with harassment; additional legal protections and requirements are provided under state law. Also inherent in the College's belief in respect for the individual is the principle that each student and employee is due appropriate respect and freedom from harassment in any form; therefore, harassment as defined in this policy may or may not be based upon a legally protected status. **All forms of discrimination, sexual harassment, other prohibited harassment and abuse as defined below are specifically prohibited.**

This policy and the following Reporting Procedures were developed as a result of discussions with faculty, staff, administrators and students regarding harassment and discrimination issues and the desire to provide a college environment that is positive and encourages communication and personal growth for all members of the college community. The Human Relations Office is responsible for developing policies and procedures, and monitoring the College's conformity with those policies and procedures, so as to comply with federal and state nondiscrimination laws. However, a discrimination-free environment is the responsibility of every member of the community. The College can take corrective action only when it becomes aware of problems. Timeliness of reporting is extremely important; it allows a more complete investigation and better prevention of recurrence. **Therefore, the College encourages persons who believe that they have experienced or witnessed discrimination, sexual harassment, other prohibited harassment and abuse as defined below to come forward promptly with their inquiries, reports, or complaints.**

DEFINITIONS OF SEXUAL HARASSMENT, OTHER PROHIBITED HARASSMENT, AND ABUSE

Sexual Harassment, Other Prohibited Harassment and Abuse

Definitions:

The definitions are interpreted and applied by the College consistent with applicable law as well as accepted standards of mature behavior.

A. Harassment Based on Legally Protected Status

- (1) Sexual/Gender Harassment (Protected Status): Sexual/gender harassment is defined consistent with sexual harassment law to include unwelcome sexual advances, requests for sexual favors, and other visual, verbal or physical conduct of a sexual nature, whether or not such conduct is legally actionable. Undesired physical contact, repeated, unwelcome requests for social engagements, and questions or comments about sexual behavior or preference are included in this definition. Additionally, sexual harassment is behavior directed at an employee (whether faculty, staff or administration) or student because of his or her sexual orientation or sex/gender when (i) submission to such conduct is made either explicitly or implicitly a term or condition of academic or other college related benefits or employment; (ii) educational or other college related opportunities/academic benefits, job benefits or other decisions affecting an individual's employment or educational or other college related opportunities are explicitly or implicitly granted or withheld based on submission to, or rejection of, unwelcome requests or conduct, based on sex/gender; or (iii) the academic or other college related and/or work environment is hostile, in other words, oppressive and/or has the purpose or effect of unreasonably interfering with a student's academic performance or an employee's job performance by creating an intimidating, hostile, or offensive academic, work, or student living environment. Such harassment may also be based upon gender, despite lack of sexual advances.
- (2) Sexual harassment most often occurs when one person has actual or apparent power or authority over another; however, it may also occur between individuals of equal status or rank within the College. Sexual harassment may occur between persons of the same gender.
- (3) Conduct forms the basis of a harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently severe or pervasive to interfere unreasonably with academic, other educational, employment performance, or participation in a College activity or living environment.
- (4) Other Protected Status Harassment (Non-Sexual): Harassment based on other protected status is defined consistent with the law to include conduct which has the purpose or effect of unreasonably interfering with a person's academic/college related or job performance or creating for the College's purposes, or tending to create, an intimidating, hostile, or offensive college or work environment on the basis of a person's legally protected status other than sex or gender, i.e., race, age (over 40), color, religion, national origin and/or disability.

(5) This policy addresses intentional conduct. It also addresses conduct which results in negative effects even though such negative effects were unintended. Sexually-related conduct forms the basis of a sexual harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently severe or pervasive to interfere unreasonably with academic, other educational, or employment performance or participation in a College activity or living environment.

(6) Examples of Protected Status Harassment: For purposes of this policy, the following are examples of prohibited Sexual/Gender Harassment and of other protected status harassment as defined above. Harassing or discriminatory conduct in the college/academic environment or workplace, whether committed by regular members of the College community (including employees and students) or third parties (e.g., parents, guests, vendors) in college related settings may include, but is not limited to:

- Unwelcome sexual advances or requests for sexual favors or other favors based upon stereotypes of race, color, religion, sex, gender, national origin, age or disability;
- Unwanted physical contact, including touching, pinching or brushing the body;
- Verbal harassment, such as sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions or threats; epithets; slurs; negative stereotyping (including “jokes”); or threatening, intimidating or hostile acts which relate to race, color, religion, gender, national origin, age or disability;
- Non-verbal conduct, such as display of sexually suggestive objects or pictures, leering, whistling, or obscene gestures; written or graphic material (including communications by computers) that defames or shows hostility or aversion toward an individual or group because of race, color, religion, gender, national origin, age or disability and is in the public spaces of the College’s premises, or that is circulated in and affects the college community via e-mail, internet posting or otherwise; and
- Acts of physical aggression, intimidation, hostility, threats, or unequal treatment based on sex (*even if not sexual in nature*) or upon race, color, religion, gender, national origin, age, military obligation or disability.

B. Non-Protected Status Harassment Abusive Behavior

For the College's purposes, prohibited harassment or abusive behavior in the college environment not necessarily based on sex/gender or other protected status may be defined as follows: any harassing or abusive behavior in the college community, either verbal or non-verbal, where such behavior threatens a student or employee’s safety and/or traumatizes the student or employee to a point that his or her individual performance in the academic/college environment or work environment is significantly affected.

REPORTING DUTIES

Reporting Duties for All Types of Discrimination, Harassment and/or Abuse.

Any student or employee who has experienced or witnessed protected status discrimination, harassment or abuse by a student or employee has a responsibility to report the situation immediately to one of the Designated Recipients listed in the “Reporting Responsibilities for Discrimination, Harassment, and Abuse”.

Additional Duty in Reporting Non-College Related Child Abuse.

The College strives to abide by South Carolina law, which dictates requirements for reporting child neglect or abuse as it affects students younger than age 18, even when it occurs outside the College. South Carolina law requires that any physician, nurse, dentist, optometrist, medical examiner or coroner, or an employee of a county medical examiner’s or coroner’s office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy, including Christian Science practitioner or religious healer, schoolteacher, counselor, principal, assistant principal, social or public assistance worker, substance abuse treatment staff, or childcare worker in any day care center or foster care facility, police or law enforcement officer, undertaker, funeral home director or employee of a funeral home, persons responsible for processing of films, computer technician, or any judge who has reasonable cause to believe that a child’s physical or mental health or welfare has been or may be adversely affected by abuse or neglect as defined by state law is to immediately report it to the local DSS or other proper law enforcement agency. S.C. Code §20-7-510.

For purposes of this law, a child is a person under the age of eighteen. S.C. Code Ann. § 20-7-30. It should be understood that if a student under age 18 is believed to have been abused or harassed, the legal requirements for reporting child abuse may apply.

The state law definition of child abuse and neglect is specific and detailed. A faculty or staff member who suspects or has any concern regarding child abuse or neglect is expected to report this information promptly to his/her Department Head, Director of Human Relations, the Dean of Students, General Counsel or Provost, who, in turn, will determine the College’s duty and, if determined appropriate, assist in contacting the proper authorities.

A faculty member or member of the administration who has reason to suspect abuse or neglect and fails to report it is subject to prosecution; however, the person making the report based on valid suspicion and concern is protected by law from both civil and criminal retaliation.

RESPONSE AND PROCEDURES

Prevention and Education.

The College is committed to preventing and eliminating illegal discrimination, harassment, and abuse of students and employees. To that end, this policy will be posted and disseminated to the College community. The policy is discussed during orientation for new students and employees. In addition, appropriate educational sessions are conducted by the College on an ongoing basis to (1) inform students, and employees about identifying discrimination and harassment and the problems they cause, (2) advise

members of the College community about their rights and responsibilities under this policy, and (3) train employees and students in the administration of this policy.

Counseling.

Information about or assistance with discrimination, harassment, and abuse issues may be obtained from a variety of College resources. Prior to or concurrent with making a report or complaint of discrimination, harassment, abuse or retaliation, individuals may find it helpful to consult with a counselor. The employees may contact the Human Resources Office regarding the employee assistant program (EAP) and students may contact the Counseling and Substance Abuse Services for support regarding discrimination, harassment, abuse or retaliation in a confidential setting. Discussions with representatives of EAP and/or the Counseling and Substance Abuse Services offices are confidential and do not constitute a complaint to the College.

Inquiries about this Policy.

Inquiries about this policy may be made to the Human Relations Office, Dean of Students, General Counsel, or Associate Provost.

College Initiated Action.

In circumstances where a report of inappropriate behavior is made but the complainant does not wish to pursue the matter, the College reserves the right to investigate the report and take appropriate action. The College also reserves the right to receive and investigate, at the college's discretion, complaints or reports by persons external to the College community about conduct of College, employees or students alleged to be involved in discrimination and/or protected status harassment.

Written Report/Complaint.

Once a complaint of harassment has been made, the complainant may be asked to submit a written statement to the individual designated to investigate the complaint. The complainant is expected to cooperate with the College's investigation including, but not limited to, preparation and submission of a comprehensive written complaint.

Cooperation.

All College employees, faculty, students, administrators and/or parents/guardians are expected to fully cooperate as requested in any investigation. If the College determines that anyone involved in the investigation has intentionally withheld information or provided false information at any time, appropriate action may be taken.

No Retaliation.

The College prohibits adverse treatment of employees or students for exercising their rights under this policy. **Any good faith report of discrimination and/or harassment, experienced or observed, should be made without fear of retaliation by the College. Retaliation against any employee or student for filing a complaint or participating in an investigation in good faith is strictly prohibited by law is strictly prohibited.** Any incident of retaliation as above should also be reported using this policy.

Retaliation is grounds for appropriate action (i.e., disciplinary action for students and employees, up to and including dismissal). Intentionally making a false report or providing false information is grounds for discipline.

After a complaint has been made and addressed, the College may make inquiries to determine that any prohibited activity has in fact ended and retaliation has not occurred.

Confidentiality.

The College recognizes that confidentiality is important. Information provided is kept confidential to the extent reasonably possible. Examples of situations where confidentiality cannot be maintained include circumstances where the College is required by law to disclose information (i.e., in response to legal process) and when disclosure is required by the College's outweighing interest protecting the rights of others.

The investigator or the investigator's designee may periodically keep the accuser, the accused, the reporting party and appropriate members of the administration informed as the investigation and decision processes unfold and of the ultimate resolution and/or action to be taken.

The College reserves the right to keep other concerned persons informed, within its discretion. See also "Reporting Responsibilities for Discrimination, Harassment, and Abuse."

Discipline and/or Corrective/Responsive Action for Protected Status and Non-Protected Status Harassment.

Upon receiving a report and in keeping with the provisions above, the College strives to promptly conduct an investigation of any allegations of discrimination and/or harassment based on sex/gender (with or without sexual conduct), race, color, religion, national origin, age, disability or protected activity (i.e., opposition to prohibited discrimination or participation in the statutory complaint process). The College affords an individual accused of discrimination, harassment, or abuse notice of the allegations and an opportunity to respond and present rebuttal information and witnesses.

At any time following notice of a complaint, the College, at its sole discretion, may reassign the living quarters and/or suspend from class or employment, with or without pay, any College student or employee accused or suspected of discrimination, harassment, or abuse as defined herein.

During the investigative and grievance process, the College, at its sole discretion, at all times has the authority to take action necessary to maintain safety and to ensure the smooth operation of the college's functions.

The resolution of any complaint is communicated to the parties involved. Any student or employee who is found to be involved in protected status discrimination, harassment, or activity which could be perceived as discriminatory or harassing of another student or employee, is subject to appropriate disciplinary or corrective action to be determined at the sole discretion of the College.

Any student, or employee determined by the College's investigation and at the sole discretion of the College to have participated in any form of protected status discrimination or harassment abuse or retaliation as defined in College policy, is subject to discipline and/or corrective/responsive action, up to and including immediate termination, suspension or expulsion. Other discipline and/or

corrective/responsive action may include, but is not limited to, training, referral to counseling and/or corrective action such as a warning, reprimand, suspension from class or employment, transfer, demotion, reassignment within the campus residential living system, removal of responsibility and related pay, community service and/or other requirements and/or penalties. Ongoing civil or criminal charges, pleas or other court related action will not impede the College from making an independent determination to the extent it determines it has sufficient information to take such action as it deems appropriate.

In the event the College determines that a corrective action is necessary, the accused individual may contest the corrective action pursuant to procedures available in the **Student Handbook**, **Faculty/Administration Manual** or the **Grievance Procedure for College of Charleston Employees**, as applicable.