

Discriminatory Harassment Policy

I. Purpose of Policy

Unlawful harassment will not be tolerated at Harvey Mudd College. In obvious and subtle ways, such conduct subverts the College's mission and threatens the careers, educational experiences, and well being of students, faculty, and staff. This policy is designed to promote an inclusive community free of harassment. It is consistent with the Vision Statement for Diversity at Harvey Mudd College, which in part reads:

The educational mission of Harvey Mudd College calls the community to cultivate social responsibility and technical acuity so that its graduates will have the scientific and social skills to function responsibly and effectively in a global environment.

This policy is intended to complement The Claremont Colleges' Intercampus Policy on Sexual Harassment. Both policies should be understood and adhered to by all members of the Harvey Mudd community.

II. Application of Policy

All members of the Harvey Mudd community are covered by this policy, including administrators, faculty, teaching assistants, staff, students, student organizations, and persons privileged to work, study, or participate in the Harvey Mudd community. Any person who violates this policy will be subject to disciplinary action up to and including dismissal from campus, expulsion, or termination of employment.

All activities associated with Harvey Mudd College are covered by this policy, including college functions hosted in private homes, off-site conferences and meetings, and college sponsored travel.

This policy applies to all campus environments including public areas of college-owned student housing.

III. Prohibited Behaviors

Prohibited behaviors under this policy include sexual harassment, discriminatory harassment, retaliation, and filing of false claims as described below.

- A. **There are two types of sexual harassment** – quid pro quo and hostile environment. Sexually harassing conduct must meet the following criteria:
- The conduct is sexual in nature
 - The conduct is unwanted or unwelcome
 - The conduct has the purpose or effect of unreasonably interfering with or otherwise unreasonably adversely affecting an individual's employment, educational opportunity, work performance, or organizational participation

1. **Quid Pro Quo Sexual Harassment** – occurs when employment or academic decisions or expectations are based on a person’s willingness to grant or deny sexual favors.

Examples of quid pro quo sexual harassment may include:

- a. Demanding sexual favors in exchange for a promotion/raise/grade
- b. Disciplining or firing a subordinate or failing a student for ending a romantic relationship
- c. Changing performance expectations of a subordinate or student for refusing repeated requests for a date

2. **Hostile Environment Sexual Harassment** – occurs when verbal or non-verbal conduct results in creating an intimidating or hostile work or educational environment.

Examples of hostile environment sexual harassment may include:

- a. Advances and/or propositions of a sexual nature, including relationships which began as consensual but later ceased to be mutual, wherein one party harasses the other
- b. Physical conduct: touching, impeding or blocking movements
- c. Verbal conduct: abusive language of a sexual nature, graphic verbal commentaries about an individual’s body, or sexually descriptive words used to describe an individual
- d. Visual conduct: leering, making sexual gestures, displaying suggestive objects, pictures, posters, or video, audio or broadcast material of a sexual nature in a public place

- B. **Discriminatory Harassment** is defined as behavior that creates an offensive, demeaning, intimidating, or hostile environment. Discriminatory harassment must meet the following criteria:

- The conduct is related to race, color, religion, ancestry, national origin, ethnicity, disability, gender, sexual orientation or any other classification or characteristic protected by law
- The conduct is unwanted or unwelcome
- The conduct has the purpose or effect of unreasonably interfering with or otherwise unreasonably adversely affecting an individual’s employment, educational opportunity, work performance, or organizational participation

Examples of discriminatory harassment may include:

1. Verbal conduct: objectionable epithets, racial slurs, “jokes,” name calling
2. Physical conduct: attacks, intimidation through threats of force or violence
3. Visual conduct: demeaning depictions (pictures, objects, posters, video, audio, or broadcast material) in a public place
4. Treatment: unfavorable treatment of individuals because of belonging to a particular group

- C. **Retaliation** - Retaliation against any individual for seeking assistance or bringing a complaint under this policy is prohibited. Similarly, any person who participates or cooperates in an investigation or process described in this policy shall not be retaliated against.

Examples of retaliation may include:

1. Unfair grading, unfair evaluation, unfair assignments;
2. Withholding of information such as class information, recommendations, or grades;
3. Ridicule (public or private), verbal or written threats or bribes, and name-calling.

- D. **False Complaints** - Knowingly filing a false or malicious charge violates this policy. Such conduct may be dealt with using the steps provided in this policy for harassment complaints. A complaint of a false charge under this policy does not constitute retaliation.

IV. Evaluating Conduct

Not every act that may be offensive to an individual or group constitutes harassment. Whether a specific incident is proscribed by this policy will be evaluated on a case-by-case basis.

V. Consensual Relationships

HMC considers it unwise and discourages faculty, and staff from becoming amorously, romantically or sexually involved with students and in certain instances prohibits such relationships. Policies concerning such relationships have been adopted and are included in the Faculty Notebook, Student Handbook and Staff Handbook. HMC also considers it inappropriate for faculty and staff to engage in amorous, romantic or sexual relationships with persons who work under their supervision and who are potentially subject to their judgment concerning personnel actions. Although such relationships may be a matter of mutual consent, the power differentials inherent in such relationships can undermine the integrity of the work environment. Moreover, relationships that begin as consensual, could nonetheless become the subject of a complaint under this Policy should consent be withdrawn by one party.

VI. Protected Behavior

Nothing in this Policy is intended to limit either the protection of free speech accorded by law and College policy or the scholarly content of written or oral presentations.

VII. Resolution Methods

A. Informal Resolution Procedures

Individuals who believe they have been or may be the victim of conduct prohibited under this policy may avail themselves of informal resolution procedures. Many complaints of harassment can be resolved informally, and informal resolution of such complaints is encouraged. The purpose of dealing with a complaint informally is to stop the offending behavior and to resolve the matter expeditiously. The College, however, cannot take disciplinary action based on informal procedures. Disciplinary action requires a formal charge.

Use of informal procedures is not a prerequisite to filing a complaint under the formal procedures described below or to seeking remedies available under state or federal law.

Requests for assistance under these informal procedures may be verbal or written and should be made as soon as possible. Such requests should be directed to the

Harassment Grievance Officer, a Harassment Peer Counselor, a supervisor, or an Officer of the college. If such a request is made to an individual other than the Harassment Grievance Officer, he or she may be obligated to inform the Harassment Grievance Officer of the request.

Except as compelled by law, or as reasonably necessary to further the interests of this policy, requests for assistance under these informal procedures will be confidential, and disclosure of their existence will be limited to those who, in the interests of fairness and problem resolution, have an immediate need to know. Moreover, absent consent, the identity of the person who requests assistance will not be divulged to the accused.

Upon receipt of a request for assistance under these informal procedures, the individual requesting assistance will be counseled on options for resolving the problem and about sources of further assistance.

Informal requests for assistance may have several outcomes. The person who makes such a request may seek only advice or counseling, or he or she may seek an informal resolution. If an informal resolution is reached, no further actions will be taken and the matter will be considered closed. If the matter cannot be resolved informally, the person to whom the request was brought will assist the complaining individual in filing a formal complaint at the complaining individual's request.

B. Formal Resolution Procedures

An individual who believes he or she has been the victim of harassment may file a formal complaint. Such a complaint will result in an investigation. The purpose of the investigation shall be to determine whether a violation of this policy has occurred.

Formal complaints must be made within one year of the most recent alleged violation of this policy. The complaint must be in writing on a form prescribed by the College. Failure to initiate a complaint under the terms of this policy, absent reasonable justification, will constitute waiver of the right to use the formal complaint procedure.

C. Other Procedures

The College reserves the right to pursue an investigation, as it deems appropriate, whenever and however it receives allegations of or information related to an alleged violation of this policy.

VIII. Reporting and Responsibilities

Formal complaints under this procedure should be directed to the Harassment Grievance Officer who in turn will involve one of the following Designated Officers:

Vice President and Dean of the Faculty
Vice President for Administration and Finance/Treasurer
Vice President and Dean of Students

An investigation may also be initiated upon the request of the President, the Harassment Grievance Officer, the Vice President and Dean of Faculty, the Vice President and Dean of Students, the Vice President for Administration and Finance/Treasurer without a formal complaint from any individual.

Except as compelled by law, complaints will be dealt with on a confidential basis and disclosure of their existence will be limited to those who, in the interests of fairness and problem resolution, have an immediate need to know.

Before investigation begins, the person(s) against whom the complaint has been made shall be informed of the complaint and the identity of the complainant, and shall be provided a copy of the complaint. During the investigation, the person(s) against whom the complaint is made shall be accorded a full opportunity to respond to the complaint, either verbally or in writing.

Investigation of complaints under these procedures shall be conducted jointly by the Harassment Grievance Officer and the appropriate Designated Officer

Complaints against faculty members: Vice President and Dean of the Faculty or a designee.

Complaints against staff: Vice President for Administration and Finance/Treasurer or a designee.

Complaints against students: the Vice President and Dean of Students will direct the complaint to the Judicial and Disciplinary Board Chairs who will manage the complaint through the Student Judicial System. (Pages 1-8 – 1-15 of the Student Handbook.) A staff member and a faculty member from the Harassment Committee will serve as the staff and faculty representatives when the DB hears cases under this policy. Should the JB and DB Chairs decide that the case is not within either jurisdiction, the case will be referred back to the Vice President and Dean of Students for administrative action.

Every effort shall be made to complete the investigation within thirty (30) working days of the date the formal complaint is made or as soon thereafter as reasonably practical under the circumstances.

The results of the investigation shall be set forth in a written report including, if applicable, recommendations for remedy and/or sanctions. The report shall constitute the formal resolution, and the appropriate College Officer(s) shall take such action as is determined to be appropriate.

The complainant and the person(s) against whom the complaint is made shall be promptly notified of the outcome of the investigation, provided with a copy of the written report, and informed of the actions, if any, taken in connection with the complaint.

IX. Sanctions

The appropriate College Officer(s) shall impose sanctions upon respondents found to be in violation of the college's nondiscrimination policy involving measures up to and including termination of employment, suspension or expulsion from the college, or withholding of diplomas, salary increases, and promotions pending completion of sanctions.

X. Remedies and Discipline

A. Remedies

Remedies may include but are not limited to offering to remove the complainant from the hostile environment (or vice versa), changes in classes, changes in residence arrangements, and changes in schedules or work hours.

B. Discipline

Persons who violate this policy will be disciplined. Discipline includes but is not limited to verbal warnings, written warnings, probation, suspension, expulsion or termination of employment. The particular form of discipline will depend on the nature of the offense. The discipline shall be imposed in accordance with the applicable College rules, policies and procedures.

XI. Appeals

A person found in violation of this policy shall have any and all rights to appeal the findings and/or disciplinary sanctions as may otherwise exist under applicable College rules, policies, or procedures.

A complainant who is dissatisfied with the outcome of the investigation may appeal in writing to the President within ten calendar days of the date he or she is notified of such outcome. The President or the President's designee shall consider the appeal and take whatever action he or she deems appropriate. The decision of the President or the President's designee shall be final. If the President is involved in the underlying complaint, the appeal shall be directed to the Vice President for Administration and Finance/Treasurer who shall act in the President's place.

XII. Records

If violation of this policy is found and discipline is imposed, a record of such discipline will be made part of the violator's permanent files.

If no violation of this policy is found, records will be retained by the Harassment Grievance Officer, and they will not enter any permanent student or personnel records, nor will any reference to the investigation appear in any other permanent personnel or student records.

XIII. Reporting

If administrators, managers, supervisors, or faculty members believe that a violation of this policy is occurring, receive a complaint of conduct which they believe violates this policy, or obtain other information indicating a possible violation of this policy, they must take immediate steps to ensure that the matter is addressed. Failure to do so may result in legal liability. Administrators, managers and supervisors have the further responsibility of preventing and eliminating harassment within their areas of supervision.

XIV. Confidentiality

All inquiries, complaints, and investigations are treated confidentially. Information is revealed strictly on a need-to-know basis or as required by law.

In a formal complaint, where possible, information is treated confidentially. However, the identity of the complainant is revealed to the respondent and the witnesses, who are advised of the confidential nature of the matter. The Harassment Grievance Officer will take immediate steps to sanction any retaliatory actions that occur during the period of the investigation or after its conclusion.

A copy of the investigation report and the final decision is included in the personnel file or student file of the respondent only if the administrative or formal processes conclude that the individual engaged in prohibited conduct. No record of the complaint is kept in the complainant's personnel file or student file unless the investigation concludes that the complainant filed a reckless, frivolous, or vexatious claim.

The Harassment Grievance Officer maintains information pertaining to a harassment or prohibited conduct complaint or investigation.

XV. Additional Recourse

Harassment based on a legally protected classification or characteristic violates federal and state law. This policy supplements, but does not replace, such laws. Whether or not the internal complaint procedures described in this policy are utilized, an employee (faculty or staff) who believes he or she is the victim of unlawful harassment may file a complaint with:

California Department of Fair Employment and Housing
611 W. 6th Street, Suite 1500
Los Angeles, CA 90017-3112
(213) 439-6799

OR

1845 South Business Center Drive, No. 217
San Bernardino, CA 92408-3426
(909) 383-6835

United States Equal Employment Opportunity Commission
255 East Temple Street, 4th Floor
Los Angeles CA 90012
(213) 894-1000

In addition, students and/or employees (faculty or staff) have the right to file a complaint with:

Office of Civil Rights
United States Department of Education
50 United Nations Plaza, Rm. 239
San Francisco, CA 94102
(415) 556-4275

State and federal law impose time deadlines for filing complaints. Use of this policy does not affect these deadlines.

XVI. Training

The Harassment Grievance Officer is responsible for providing training materials for all members of the community. The Vice President and Dean of the Faculty is responsible for implementing training for faculty. The Vice President and Dean of Students is responsible for implementing education/training to all students. The Vice President for Administration and Finance/Treasurer is responsible for implementing education/training to all staff.

All employees of the College are responsible for completing training and complying with the policy.

XVII. Policy Dissemination

The Harassment Grievance Officer is responsible for distributing this policy to the faculty, staff, and students.

A copy of this policy shall be included in all employee and student orientation materials. In addition, copies of this policy shall be made available at appropriate campus locations. The College's Officers shall also take such steps as are appropriate to develop educational and training programs designed to promote a work and educational environment free of harassment.

XVIII. Inquiries

Inquiries concerning this policy and complaint procedures may be directed to the Harassment Grievance Officer:

Cynthia Beckwith
Human Resources Office
Kingston Hall 227
Extension 18512

XIX. Policy Sources

California Education Code Section 200 et seq.; the California Fair Employment and Housing Act; California Government Code Section 12900 et seq.; The California Sex Equity in Education Act, California Education Code Section 66250 et seq.; Title VII of the Civil Rights Act of 1964, Title 42, United States Code, Section 2000-e, et seq.; and Title IX of the Education Amendments of 1972, Title 20, United States Code, Section 1681(a).

XX. Policy Review and Evaluation

This policy was approved by the College's Senior Staff on May 28, 2002, and is effective July 1, 2002. It is subject to periodic review. Comments or suggestions should be forwarded to the Harassment Grievance Officer.

Revised Section XVIII September 2009
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