EQUAl OPPORTUNITY, HARRASSMENT, AND NONDISCRIMINATION POLICY AND PROCEDURES

Policy Number: 1089

Hutchinson Community College

Equal Opportunity, Harassment, and Nondiscrimination Policy & Procedures[1]

Overview:

Hutchinson Community College (“the College”) affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies are subject to resolution using the College’s Equity Grievance Process, as defined below. The Equity Grievance Process is applicable regardless of the status of the parties involved, who may be members or non-members of the campus community, students, student organizations, faculty, administrators, and/or staff. The College reserves the right to act on incidents occurring on-campus or off-campus when the off-campus conduct could have an on-campus impact or impact on the educational mission of the College.

The Coordinator of Equity & Compliance serves as the Title IX/EQ/Title IX Coordinator and oversees implementation of the College’s Affirmative Action and Equal Opportunity Plan, disability compliance, and the College’s policy on equal opportunity, harassment, and nondiscrimination. Reports of discrimination, harassment, and/or retaliation should be made to the Coordinator of Equity & Compliance (or designates) promptly, but there is no time limitation on filing of grievances as long as the accused individual remains subject to the College’s jurisdiction. All reports are acted upon promptly while every effort is made by the College to preserve the privacy of reports. Anonymous reports may also be filed online, if such mechanisms are available, by using the designated reporting form. Reporting is addressed more specifically in Section VIII below. Reports of discrimination by the Coordinator of Equity & Compliance should be reported to the College President.

This policy applies to behaviors that take place on the campus, at college-sponsored events, and may also apply off-campus and to actions online when the Coordinator of Equity & Compliance determines that the off-campus conduct affects a substantial College interest. A substantial College interest is defined to include the following:

- Any action that constitutes criminal offense as defined by federal or Kansas state law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law committed in the municipality where the College is located;
- Any situation where it appears that the accused individual may present a danger or threat to the health or safety of self or others;
- Any situation that significantly impinges upon the rights, property, or achievements of self or others or significantly breaches the peace and/or causes social disorder and/or
- Any situation that is detrimental to the educational interests of the College.
- Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc. occurring completely outside of the College’s control (e.g., not on College networks, websites, or between College email accounts) will only be subject to this policy when those online behaviors can be shown to cause a substantial on-campus disruption. Otherwise, such communications are considered speech protected by the 1st Amendment.

Off-campus discriminatory or harassing speech by employees may be regulated by the College only when such speech is made in an employee’s official or work-related capacity.

Inquiries about this policy and procedure may be made internally to

Jacob Gunder
Coordinator of Equity & Compliance
Parker Student Union
Hutchinson, KS 67501
Phone: (620) 665-3512
Email: gunderj@hutchcc.edu

Inquiries may be made externally to[2]

Office for Civil Rights (OCR) U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Phone (Customer Service Hotline): (800) 421-3481
Fax: (202) 453-6012
TDD: (877) 521-2172
Email: OCR@ed.gov
Web: http://www.ed.gov/ocr

Office for Civil Rights (OCR) for Region VII
U.S. Department of Health and Human Services
601 East 12th Street - Room 353
Kansas City, MO 64106
Phone: (800) 368-1019
Fax: (816) 426-3688
TDD: (800) 537-7697 Equal Employment Opportunity Commission (EEOC)
Contact: http://www.eeoc.gov/contact/

The Kansas Human Rights Commission (KHRC)
Contact: www.khrc.net

I. College Policy on Nondiscrimination

Hutchinson Community College adheres to all federal and state civil rights laws banning discrimination in public institutions of higher education. The College will not discriminate against any applicant, applicant for employment, student, or applicant for admission on the basis of race, color, national origin, sex, sexual orientation, gender identity, marital status, pregnancy, genetic information, religion, age, ancestry, disability, marital status, or veteran status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), domestic violence status, or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus or within the Equal Employment Opportunity Commission or other human rights agencies.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential and/or social access, benefits, and/or opportunities of any member of the campus community on the basis of their actual or perceived membership in the protected classes listed above is in violation of the College policy on nondiscrimination. When brought to the attention of the College, any such discrimination will be appropriately remedied by the College according to the procedures below.
II. College Policy on Accommodation of Disabilities

HUTCHINSON COMMUNITY COLLEGE is committed to full compliance with the AMERICANS WITH DISABILITIES ACT of 1990 (ADA) and SECTION 504 of the REHABILITATION ACT of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if he or she has a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the institution whether qualified or not. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, caring for oneself, learning, reading, concentrating, or thinking.

The Coordinator of Equity & Compliance, in cooperation with the Coordinator of Disability Services and the Director of Human Resources, has been designated as the ADA/504 Coordinator responsible for coordinating efforts to comply with these disability laws, including investigation of any grievance alleging noncompliance.

A. Students with Disabilities

The College is committed to providing qualified students with disabilities reasonable accommodations and support needed to ensure equal access to the academic programs and activities of the College.

All accommodations are made on a case-by-case basis. A student requesting any accommodation should first contact the Coordinator of Disability Services who coordinates services for students with disabilities. The coordinator reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate to the student’s particular needs and academic programs.

B. Employees with Disabilities

Pursuant to the ADA, the College will provide reasonable accommodation(s) to all qualified employees with disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship.

An employee with a disability is responsible for requesting an accommodation in writing to the Director of Human Resources and providing appropriate documentation. The Director of Human Resources, in cooperation with the Coordinator of Equity & Compliance, will work with the employee’s supervisor to identify which essential functions of the position are affected by the employee’s disability and what reasonable accommodations could enable the employee to perform those duties.

III. College Policy on Discriminatory Harassment

STUDENTS, STAFF, ADMINISTRATORS, AND FACULTY ARE TO BE TREATED WITH RESPECT AND DIGNITY IN AN ENVIRONMENT THAT IS FREE FROM DISCRIMINATORY HARASSMENT. THE COLLEGE’S HARASSMENT POLICY IS IN RECOGNITION OF THE NEED TO PROVIDE EDUCATIONAL OPPORTUNITY TO DISCRIMINATORY轟のvictim and for the protection of any other individual from the College. THE COLLEGE CONSIDERS ANY INCIDENT OF DISCRIMINATION TO BE A VIOLATION OF THE DISABILITY ACT AND THE DISABILITY ACT OF 1973, AS AMENDED, AND THE COLLEGE WILL CONSIDER ANY INCIDENT OF DISCRIMINATION TO BE A VIOLATION OF THE DISABILITY ACT AND THE DISABILITY ACT OF 1973, AS AMENDED.

A. Discriminatory and Bias-Related Harassment

Harassment constitutes a form of discrimination that is prohibited by law. The College will respond to all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, the College may also impose sanctions on the harasser.[3] The College’s harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by oral, written, graphic, or physical conduct that is sufficiently severe, persistent/pernicious, and objectively offensive that it interferes with, limits, or deprives the ability of an individual to participate in or benefit from the educational programs or activities of an educational institution or access, benefits or opportunities. [4] Offensive conduct and/or harassment that does not rise to the level of discrimination or that is of a generic nature not on the basis of a protected status may result in the imposition of discipline under this College policy but will be addressed through civil confrontation, removal actions, education, effective conflict resolution mechanisms, and/or interventions/sanctions outlined in the College’s Standards of Conduct for Students. For assistance with conflict resolution techniques, employees should contact the Director of Human Resources, and students should contact the Vice President of Student Services.

The College considers and will not tolerate discriminatory harassment against any employee, student, visitor, or guest on the basis of any status protected by College policy or law.

B. Sexual Harassment

Both the Equal Employment Opportunity Commission and the State of Kansas regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. The College has adopted the following definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employee and employee but also of students as well. [5] Sexual harassment is unwelcome, sexual or gender-based verbal, written, online, and/or physical conduct. [6]

Anyone experiencing sexual harassment in any College program is encouraged to report it immediately to the College’s Coordinator of Equity & Compliance.

Sexual harassment creates a hostile environment, and may be disclosed when it is sufficiently severe, persistent/pernicious, and objectively offensive that it

- has the effect of unreasonably interfering with, denying or limiting employment opportunities or the ability to participate in or benefit from the University’s educational, social and/or residential program, and is
- based on power differentials (QUID PRO QUO)[7], the creation of a hostile environment or retaliation.[8]

C. Sexual Misconduct

STATE LAW DEFINES VARIOUS VIOLENT AND/OR NON-CONSENSUAL SEXUAL ACTS AS CRIMES. ADDITIONALLY, THE COLLEGE HAS DEFINED CATEGORIES OF SEXUAL MISCONDUCT, AS STATED BELOW, FOR WHICH INCURSION OF THIS POLICY MAY BE IMPOSED. THE COLLEGE USES THE TERM “SEXUAL MISCONDUCT” TO ADDRESS BEHAVIORS LIKE RAPE AND SEXUAL ASSAULT. THE USE OF THIS TERM IS NOT INTENDED TO DIMINISH OR MINIMIZE A VICTIM’S EXPERIENCE BUT IS INSTEAD A RECOGNITION THAT THE COLLEGE HAS NO AUTHORITY TO DETERMINE THAT A CRIME OCCURRED. THE COLLEGE DOES NOT VIEW SEXUAL MISCONDUCT AS A LAWSUIT FORM OF MISCONDUCT THAN RAPE OR SEXUAL ASSAULT. GENERALLY SPEAKING, THE COLLEGE CONSIDERS NON-CONSENSUAL SEXUAL INTERCOURSE VIOLATIONS TO BE THE MOST SERIOUS AND THEREFORE TYPICALLY IMPOSES THE MOST SEVERE SANCTIONS, INCLUDING SUSPENSION OR EXPULSION FOR STUDENTS AND TERMINATION FOR EMPLOYEES. HOWEVER, THE COLLEGE RESERVES THE RIGHT TO IMPOSE ANY LEVEL OF SANCTION, RANSGED FROM A REMINDER UP TO AND INCLUDING SUSPENSION OR EXPULSION/TERMINATION, FOR ANY ACT OF SEXUAL MISCONDUCT OR OTHER GENDER-BASED OFFENSES, INCLUDING INTIMATE PARTNER OR RELATIONSHIP (SPENDING AND OR DOMESTIC) VIOLENCE, NON-CONSENSUAL SEXUAL CONTACT AND STALKING BASED ON THE FACTS AND CIRCUMSTANCES OF THE PARTICULAR GRIEVANCE. ACTS OF SEXUAL MISCONDUCT MAY BE COMMITTED BY ANY PERSON UPON ANY OTHER PERSON, REGARDLESS OF THE SEX, GENDER, SEXUAL ORIENTATION, AND OR GENDER IDENTITY OF THOSE INVOVED. VIOLATIONS INCLUDE:

1. Sexual Harassment (as defined in section B above)
2. Non-Consensual Sexual Intercourse[9]

Defined as

- Any sexual penetration or intercourse (anal, oral, or vaginal)
- However, it is not
- With any object
- By a person upon another person
- That is without consent and/or by force.[10]

Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

3. Non-Consensual Sexual Contact

Defined as

- Any intentional sexual touching
- However, it is not
- With any object
- By a person upon another person
- That is without consent and/or by force.
4. Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact. Examples of sexual exploitation include but are not limited to:

- Invasion of privacy.
- Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaged in sexual acts without the consent of the person observed);
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent);
- Prostitution;
- Prostuting another student or employee.

Engaging in sexual activity with another person willingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection;

Administering alcohol or drugs (such as "date rape" drugs[11]) to another person without his or her knowledge or consent;

Exploiting one’s own experience in non-consensual circumstances; inducing another to expose their genitals;

Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

5. Consent[12]

Consent is knowing, voluntary, and clear permission by words or action to engage in mutually agreed upon sexual activity. Consent is active, not passive. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Silence—without actions demonstrating permission—cannot be assumed to show consent.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

A person cannot consent if he or she is unable to understand what is happening or is disinclined, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

Because alcohol or other drug use may place the capacity to consent in question, sober sex is less likely to raise such questions. It is not an excuse that the individual responding party of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because he/she lacks the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of his/her sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. Likewise, consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. The existence of the consent is based on the totality of the circumstances, including the context in which the alleged Incident occurred and any similar previous patterns that may be evidenced. Sexual abuse or the absence of resistance alone is not consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue and, if that happens, the other person must stop immediately. Under this policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing, and voluntary consent to any sexual activity is equivalent to a "No."

In the State of Kansas, a minor (meaning a person under the age of 17 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 17 years old is a crime, as well as a violation of this policy, even if the minor wanted to engage in the act.

D. Sexual Misconduct Scenarios:

1. Situation:

Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 PM until 3:00 PM, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps after her and begins to question her religious convictions, and accuses her of being “a whore.” Finally, it seems to Bill that her resistance is weakening, and he convinces her to give him a “hand job” (hand to genital contact). Amanda would never have done it but for Bill’s incessant advances. He feels he successfully seduced her and that she wanted to do it all along but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn’t want it, she should have left.

Bill is responsible for violating the College’s non-consensual or forced sexual contact policy. It is likely that a College hearing board would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not effective when forced. Sex without effective consent is sexual misconduct.

2. Situation:

Mark is a sophomore at the college. Beth is a freshman. Mark comes to Beth’s dorm room with some mutual friends to watch a movie. Mark and Beth, who have never met before, are attracted to each other. After the movie, everyone goes, and Mark and Beth are alone. They “set it off” and are soon becoming more intimate. They start to make out. Mark verbally expresses his desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five and has not had any sexual relations since, is shocked at how quickly things are progressing. As Mark takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashbacks to her childhood trauma. She wants to talk to Mark to stop but cannot. Beth is still and unresponsive during the intercourse.

Mark would be held responsible in this scenario for non-consensual sexual intercourse. If it is the duty of the sexual initiator, Mark, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Mark had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, students should attempt to be as clear as possible about whether or not sexual contact is desired, but students must be aware that for psychological reasons, or because of alcohol or drug use, one’s partner may not be in a positive position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be active, not passive, given.

3. Situation:

Ken and Amy are at a party. Ken is not sure how much Amy has been drinking, but he is pretty sure it’s a lot. After the party, he walks Amy to her room, and Amy “comes on” to Ken, initiating sexual activity. Ken asks her if she is really up to this, and Amy says, “Yes.” Clothes go flying, and they end up in Amy’s bed. Suddenly, Amy runs for the bathroom. When she returns, her face is pale, and Ken thinks she may have thrown up. Amy gets back into bed, and they begin to have sexual intercourse. Ken is having a rocky time, though he can’t help but notice that Amy seems pretty groggy and passive, and he thinks Amy may have even passed out briefly during the sex, but he does not let that stop him. When Ken runs into Amy the next day, he thanks her for the wild night. Amy remembers nothing and decides to make a complaint.

This is a violation of the non-consensual sexual intercourse policy. Ken should have known that Amy was incapable of making a rational, reasonable decision about sex. Even if Amy seemed to consent, Ken was well aware that Amy had consumed a large amount of alcohol, and Ken thought Amy had physically ill and knew that she passed out during sex. Ken should be held accountable for taking advantage of Amy in her condition. This is not the level of respectfule conduct expected of students.

E. Sexual Misconduct—Risk Reduction Tips

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame and with recognition that only those who commit sexual misconduct are responsible for these actions, these suggestions may nevertheless help one reduce their risk experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

- If you have limits, have them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Get help for yourself and ask for help.
- Take affirmative responsibility for your alcohol ingestion/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who...
IV. College Policy Expectations with Respect to Consensual Relationships

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee, coach and player). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy. The College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the College. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student, supervisor-subordinate) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships, including supervision in an athletic, academic, or classroom setting, must bring those relationships to the timely attention of their supervisor or department chairperson, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift a party out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes RAs and students over whom they have direct responsibility. While no relationships are prohibited by this policy, failure to self-report such relationships when a supervisor is required can result in disciplinary action for an employee.

V. Other Civil Rights Offenses, When the Act Is Based Upon the Status of a Protected Class

- THREATENING OR CAUSING PHYSICAL HARM, EXTREME VIOLENT ABUSE, OR OTHER CONDUCT WHICH THREATENS OR ENDANGERs THE HEALTH OR SAFETY OF ANY PERSON ON THE BASIS OF HER/HIS ACTUAL OR PERCEIVED MEMBERSHIP IN A PROTECTED CLASS
- DISCRIMINATION, DEFINED AS ACTIONS THAT DEPRIVE OTHER MEMBERS OF THE COMMUNITY OF EDUCATIONAL OR EMPLOYMENT ACCESS, BENEFITS, OR OPPORTUNITIES ON THE BASIS OF THEIR ACTUAL OR PERCEIVED MEMBERSHIP IN A PROTECTED CLASS
- INTRODUCTION, DEFINED AS IMPOSED THREATS OR ACTS THAT CAUSE AN UNREASONABLE FEAR OF HARM IN ANOTHER ON THE BASIS OF ACTUAL OR PERCEIVED MEMBERSHIP IN A PROTECTED CLASS
- HARASSING, DEFINED AS ACTIONS LIKELY TO CAUSE PHYSICAL OR PSYCHOLOGICAL HARM OR SOCIAL OSTRACISM TO ANY PERSON WITHIN THE COLLEGE COMMUNITY, WHEN RELATED TO THE ADMISSION, RIVERS, PLOTTING, JENNING, OR ANY OTHER GROUP-APPROPRIATION ACTIVITY ON THE BASIS OF ACTUAL OR PERCEIVED MEMBERSHIP IN A PROTECTED CLASS; HARASSING IS ALSO ILLEGAL UNDER KANSAS STATUTE [13] AND PROHIBITED BY COLLEGE POLICY
- BUILDING, DEFINED AS REPEATED AND/OR SEVERE AGGRESSIVE BEHAVIOR LIKELY TO INTIMIDATE OR INTENTIONALLY HURT, CONTROL OR DISMISS ANOTHER PERSON, PHYSICALLY OR PSYCHOLOGICALLY ON THE BASIS OF ACTUAL OR PERCEIVED MEMBERSHIP IN A PROTECTED CLASS
- VIOLENCE BETWEEN THOSE IN AN INTIMATE RELATIONSHIP TO EACH OTHER ON THE BASIS OF ACTUAL OR PERCEIVED MEMBERSHIP IN A PROTECTED CLASS (WHICH INCLUDES ROMANTIC RELATIONSHIPS, DOMESTIC [15], AND OR RELATIONSHIP VIOLENCE [16]
- STALKING [17], DEFINED AS A CAREFUL OR CONDUCT DIRECTED AT A SPECIFIC PERSON ON THE BASIS OF ACTUAL OR PERCEIVED MEMBERSHIP IN A PROTECTED CLASS THAT IS UNWELCOME AND CAUSE A REASONABLE PERSON TO FEEL FAIR [18]
- ANY OTHER COLLEGE RULES, WHEN A VIOLATION IS MOTIVATED BY THE ACTUAL OR PERCEIVED MEMBERSHIP OF THE VICTIM OR THE BASIS OF SEX OR GENDER OR IN A PROTECTED CLASS, MAY BE PURSUED USING THIS POLICY AND PROCESS.

Sanctions for the above-listed "Other Civil Rights Behaviors" behaviors range from reprimand up through and including expulsion (students) or termination of employment.

VI. Retaliation

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, for supporting a party bringing a grievance, or for assisting in providing information relevant to a claim of harassment is a serious violation of College policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Coordinator of Equity and Compliance and will be promptly investigated. The College is prepared to take steps appropriate to protect individuals who fear that they may be subjected to retaliation.

VII. Remedial Action

The College will implement initial remedial and responsive actions whenever any information which is required to be kept confidential is found by the college. If the incident of harassment or discrimination occurs on campus, the College will provide remedial and responsive actions whenever any information which is required to be kept confidential is found by the college. If the incident of harassment or discrimination occurs on campus, the College will provide remedial and responsive actions whenever any information which is required to be kept confidential is found by the college. If the incident of harassment or discrimination occurs on campus, the College will provide remedial and responsive actions whenever any information which is required to be kept confidential is found by the college. If the incident of harassment or discrimination occurs on campus, the College will provide remedial and responsive actions whenever any information which is required to be kept confidential is found by the college. If the incident of harassment or discrimination occurs on campus, the College will provide remedial and responsive actions whenever any information which is required to be kept confidential is found by the college.
THE INFORMATION IX. Federal Statistical Reporting and Timely Warning Obligations

A responsibility employee must report all relevant details about the alleged incident shared by the reporting party—including the names of the reporting party, the alleged perpetrator(s) (responding party), any witnesses, and any other relevant information, including the date, time, and specific location of the alleged incident.

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OBLIGATION OF THE PARTY TO PROVIDE A SAFE, NON-DISCRIMINATORY ENVIRONMENT FOR ALL INDIVIDUALS, INCLUDING THE REPORTING PARTY.

THE COLLEGE HAS DESIGNATED THE COORDINATOR OF EQUITY & COMPLAINTS TO EVALUATE REQUESTS FOR CONFIDENTIALITY ONCE A RESPONSIBLE EMPLOYEE IS ON NOTICE OF ALLEGED MISCONDUCT. WHEN WEIGHING A REPORTING PARTY’S REQUEST FOR CONFIDENTIALITY OR THAT NO INVESTIGATION OR DISCPLINARY ACTION BE TAKEN, THE COLLEGE MUST WEIGHT THAT REQUEST AGAINST THE COLLEGE’S OBLIGATION TO PROVIDE A SAFE, NON-DISCRIMINATORY ENVIRONMENT FOR ALL INDIVIDUALS.

THE PRESENCE OF ONE OR MORE OF THESE FACTORS COULD LEAD THE COLLEGE TO INVESTIGATE AND, IF APPROPRIATE, PURSUE DISCIPLINARY ACTION. IF NONE OF THESE FACTORS IS PRESENT, THE COLLEGE WILL WEIGH THE REPORTING PARTY’S REQUEST FOR CONFIDENTIALITY.

THE COLLEGE DETERMINES THAT IT CANNOT MAINTAIN A REPORTING PARTY’S CONFIDENTIALITY, THE COLLEGE WILL INFORM THE VICTIM PRIOR TO STARTING AN INVESTIGATION AND WILL, TO THE EXTENT POSSIBLE, ONLY SHARE INFORMATION WITH PEOPLE RESPONSIBLE FOR HANDLING THE COLLEGE’S RESPONSE.

THE COLLEGE WILL REMAIN EVER HUNGRY OF THE REPORTING PARTY’S WELL-BEING AND WILL TAKE ON-GOING MEASURES TO PROTECT THE REPORTING PARTY FROM RETALIATION OR HARM AND WORK WITH THE REPORTING PARTY TO CREATE A SAFETY PLAN. RETALIATION AGAINST THE REPORTING PARTY, WHETHER BY STUDENTS OR COLLEGE EMPLOYEES, WILL NOT BE TOLERATED. THE COLLEGE WILL ALSO


IX. Federal Statistical Reporting and Timely Warning Obligations

CERTAIN CAMPUS OFFICIALS HAVE A DUTY TO REPORT ASSAULT, DOMESTIC VIOLENCE, ABUSIVE VIOLANCE AND STALKING FOR FEDERAL STATISTICAL PURPOSES (Clery Act). ALL PERSONALLY IDENTIFIABLE INFORMATION IS KEPT CONFIDENTIAL BUT STATISTICAL INFORMATION MUST BE SHARED WITH CAMPUS LAW ENFORCMENT REGARDING THE TYPE OF INCIDENT AND ITS GENERAL LOCATION (ON OR OFF-CAMPUS, IN THE SURROUNDING COMMUNITY). THE FOLLOWING ARE THE STATISTICAL REPORTING CATEGORIES IN THE COLLEGE’S ANNUAL SECURITY REPORT. THIS REPORT HELPS TO PRODUCE THE COMMUNITY WITH A CLEAR PICTURE OF THE EXTENT AND NATURE OF CRIME CRIME, TO ENSURE GREATER COMMUNITY SAFETY. MANDATED FEDERAL REPORTERS INCLUDE STUDENT/CONDUCT AFFAIRS, CAMPUS SECURITY, LOCAL POLICE, COACHES, ATHLETIC DIRECTORS, RESIDENCE LIFE STAFF, STUDENT ACTIVITIES STAFF, HUMAN RESOURCES STAFF, ADVISORS TO STUDENT ORGANIZATIONS, AND ANY OTHER OFFICIAL WITH AKEY RESPONSIBILITY FOR STUDENT AND CAMPUS ACTIVITIES.
X. Frequently Asked Questions Regarding Reporting

The following are some of the most common asked questions regarding the College’s sexual misconduct policy and procedures.

- Does information about a complaint remain private?

  The privacy of all parties to a complaint about sexual misconduct must be respected, except as it interferes with the College’s obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. Disclosure of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the complainant or the accused individual may lead to conduct action by the College.

- In all complaints of sexual misconduct, all parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain college administrators are informed of the outcome within the bounds of student privacy (e.g., the President of the College, Vice President of Student Services, Campus Security Officers). If there is a report of an act of alleged sexual misconduct to a conduct officer of the College and there is evidence that a felony has occurred, local police will be notified. This does not mean charges will be automatically filed or that a victim must speak with the police, but the institution is legally required to notify law enforcement authorities. The institution also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

- Will my parents be told?

  No, not unless you tell them or unless you are a minor. Whether you are the complainant or the accused individual, the College’s primary relationship is to the student and not the parent. However, in the event of major medical, disciplinary, or academic jeopardy, students are encouraged to inform their parents. College officials will directly inform parents when requested to do so by a student, in a life-threatening situation, or if an accused individual has signed the permission form at registration which allows such communication.

- Will the accused individual know my identity?

  Yes, if you file a formal complaint. Sexual misconduct is a serious offense and the accused individual has the right to know the identity of the complainant/accused victim. If there is a hearing, the College does provide options for questioning without confrontation, including closed-circuit testimony, sitting, using a room divider or using separate hearing rooms.

- Do I have to name the perpetrator?

  Yes, if you want formal disciplinary action to be taken against the alleged perpetrator. No, if you choose to respond informally and do not file a formal complaint (but you should consult the reporting policy about better understanding the College’s legal obligations depending on what information you share with different college officials). Victims should be aware that not identifying the perpetrator may limit the institution’s ability to respond comprehensively.

- What do I do if I am accused of sexual misconduct?

  Do NOT contact the alleged victim. You may immediately want to contact someone who can act as your advocate (advisor); anyone may serve as your advocate. You may also contact the Student Services Office or the Coordinator of Equity & Compliance, who can explain the College’s procedures for addressing sexual misconduct complaints. You may also want to talk to one of the College’s confidential counselors or seek other community assistance.

- What about confidentiality?

  Victims of criminal sexual assault need not retain a private attorney to pursue prosecution because representation will be handled by the District Attorney’s (Prosecutor’s) office. You may want to retain an attorney if you are the accused individual or are considering filing a civil action. The accused individual may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution.

- What about changing residence hall rooms?

  If you want to move, you may request a room change. Room changes under these circumstances are considered emergencies. It is typical institutional policy that in emergency room changes, the student is moved to the first available available room. If you want the accused individual to move and believe that you have been the victim of sexual misconduct, you must be willing to pursue a formal or informal college complaint. No conduct orders can be imposed and room changes for the accused individual can usually be arranged quickly. Other accommodations available to you might include:

  - Assistance from College support staff in computing the residence;
  - Arranging topossibly to assign a housing contract and providing a refund;
  - Assistance with or rescheduling an academic assignment (paper, exams, etc.);
  - Taking an incomplete in a class;
  - Assistance with transferring class sections;
  - Temporary withdrawal;
  - Assistance with alternative course completion options;
  - Other accommodations for safety as necessary.

- What should I do about preserving evidence of a sexual assault?

  Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim’s person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc., for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the Hospital Emergency Room before washing yourself or your clothing. The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is usually on call 24 hours a day, 7 days a week (call the Emergency Room if you first want to speak to the nurse; ER will refer you). A victim advocate from the institution can also accompany you to the hospital and law enforcement or campus security can provide transportation. If a victim goes to the hospital, local police will be called, but the nurse is not obligated to talk to the police or to pursue prosecution. Having the evidence collected in this manner will help to keep all options available to a victim but will not obligate him or her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.

- For the Victim:

  The hospital staff may collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic covers do not breath, and may render evidence useless). If you have not changed clothing, bring a change of clothes with you to the hospital if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam if you want. Do not disturb the crime scene—leave all sheets, towels, etc., that may bear evidence for the police to collect.

- Will a victim be sanctioned when reporting a sexual misconduct violation if she has legally used drugs or alcohol?

  No. The severity of the infraction will determine the nature of the College’s response, but whenever possible the College will respond educationally rather than punitive to the illegal use of drugs and/or alcohol. The seriousness of sexual misconduct is a major concern and the College does not want any of the circumstances (e.g., drug or alcohol use) to warrant the reporting of sexual misconduct.

- Will the use of drugs or alcohol affect the outcome of a sexual misconduct claim?

  The use of alcohol and/or drugs by either party will not diminish the accused individual’s responsibility. On the other hand, alcohol and/or drug use is likely to affect the complainant’s memory and, therefore, may affect the outcome of the complaint. A person making a complaint of sexual misconduct must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence, and/or witnesses to prove her/his complaint. If the complainant does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the accused without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by an accused individual.

- Will either party’s prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?

  Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

- What should I do if I am uncertain about what happened?

  You should report it.
Equity Grievance Process for Resolving Grievances of Harassment, SEXUAL MISCONDUCT and OTHER FORMS OF Discrimination

The College will act on any formal or informal grievance or notice of violation of the policy on EQUAL Opportunity, Harassment and Non-Discrimination, that is received by the Coordinator of Equity & Compliance, his or her designee(s) (if applicable), a member of the Equity Grievance Panel, a member of the administration, or a responsible employee (as designated by the College Policy).

The procedures described below will apply to all grievances involving students, staff or faculty members. Redress and requests for responsive actions for grievances brought involving non-members of the community are also covered by these procedures.

I. Equity Grievance Panel (EGP)

A. Membership Roles

Members of the EGP are appointed in an annual distribution of this policy to campus, prospective students, their parents and prospective employees. The list of members and a description of the panel can be found at www.hutches.edu. Members of the EGP are trained in all aspects of the grievance process and can serve in any of the following roles at the direction of the Coordinator of Equity & Compliance:

- To provide sensitive intake and initial counseling of grievances
- To serve in a mediation role in conflict resolution
- To investigate grievances
- To act as advocates (advisors) to those involved in grievances
- To serve on hearing panels for grievances
- To serve on appeal panels for grievances

EGP members also recommend proactive policies and serve in an educative role for the community. The President, in consultation with the Coordinator of Equity & Compliance, appoints the panel which reports to the Coordinator of Equity & Compliance. EGP members receive annual training organized by the Coordinator of Equity & Compliance, including a review of College policies and procedures, so that they are able to provide accurate information to members of the community. All EGP members are required to attend this annual training.

B. Membership

The Equity Grievance Panel includes:

- At least 2 Co-Chairs: one representative from Human Resources and one from Student Services, etc.
- One Administrative Hearing Officer who is an ex officio member and serves as Chair of grievance panel hearings for grievances involving student responding parties such as the Vice President of Student Services or his/her designee
- At least 2 members of Academic Affairs administrators and/or faculty
- At least 2 members of the Administration
- At least 2 members of the Staff
- At least 1 representative from Campus Security and/or Campus Facilities
- At least 1 representative from Human Resource
- At least 1 representative from Athletics

Panel members are usually appointed to three-year terms. Appointments to the EGP should be made with attention to representation of groups protected by the anti-harassment and non-discrimination policy. Individuals who are interested in serving on the EGP are encouraged to contact the Coordinator of Equity & Compliance.

II. Filing a grievance

Any member of the community, guest or visitor who believes that the policy on Equal Opportunity, Harassment and Non-Discrimination has been violated should contact the Coordinator of Equity & Compliance or a member of the EGP. It is also possible for employees to notify a supervisor, or for students to notify an administrative advisor or faculty member, or any member of the community may contact Campus Security. These individuals will in turn notify the Coordinator of Equity & Compliance. The College website may also include a reporting form, if available, which may serve to initiate a grievance.

All employees receiving reports of a potential violation of College policy are expected to promptly contact the Coordinator of Equity & Compliance, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with the maximum possible privacy; specific information on any grievances received by any party will be reported to the Coordinator of Equity & Compliance, but, subject to the College’s obligation to address violations, any effort will be made to maintain the privacy of those reporting a report of a grievance. In all cases, the College will use consideration to the party bringing a grievance with respect to how the grievance is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution when an alleged victim chooses not to initiate or participate in a formal grievance.

III. Grievance intake

Following receipt of notice of a grievance, the Coordinator of Equity & Compliance [21] will, promptly assign an EGP panel member to work as an advocate (advisor) to the person who reported the grievance or, if so desired by the party bringing a grievance, the party bringing a grievance may choose from the EGP pool (or choose a non-trained advocate from outside the pool, if preferred, or proceed without an advocate). Initially, within two business days, an initial determination is made whether a policy violation may have occurred and/or whether conflict resolution might be appropriate. If the grievance does not appear to alleges a policy violation or if conflict resolution is desired by the party bringing a grievance and appears appropriate given the nature of the alleged behavior, then the grievance does not proceed to investigation.

A full investigation will necessarily be pursued if there is evidence of a pattern of misconduct or a perceived threat of further harm to the community or any of its members. The College aims to complete all investigations within a 60 business day time period, which can be extended as necessary for appropriate cause by the Coordinator of Equity & Compliance with notice to the parties.

In campus investigations and hearings, legal terms are “guilty,” “innocence,” and “burden of proof” are not applicable, but the College never assumes a student is in violation of College policy. Campus investigations and hearings are conducted to take into account the totality of all evidence available from all relevant sources.

The College reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct in order to protect students’ rights and personal safety. Such measures include, but are not limited to, modification of living arrangements, interim suspension from campus pending a hearing, and reporting the matter to local law enforcement. Not all forms of harassment of misconduct will be deemed to be equally serious offenses, and the College reserves the right to impose different sanctions, ranging from verbal warning to expulsion, depending on the severity of the offense. The College will consider the concerns and rights of both the party bringing a grievance and the respondent (person accused of misconduct).

IV. Investigation

If a party bringing a grievance wishes to pursue a formal grievance or if the College, based on the alleged policy violation, wishes to pursue a formal grievance, then the Coordinator of Equity & Compliance appoints EGP members to conduct the investigation, usually within two business days of determining that a grievance should proceed. Investigation of grievances brought directly by those alleging harm must be completed expeditiously, normally within 10 business days of notice to the Coordinator of Equity & Compliance. The investigation may take longer when initial grievances fail to provide direct first-hand information. The College may undertake a short delay (3-10 days, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. College action will not be actuated or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. All investigations will be thorough, reliable, and impartial, and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information if necessary.

V. Interim Remedies

If, in the judgment of the Coordinator of Equity & Compliance, the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the accused individual or the ongoing activity of a student organization whose behavior is in question, the Coordinator of Equity & Compliance (or designee) may promulgate interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the alleged victim and the community and to prevent further violations. These remedies may include referral to counseling and health services or to the Employee Assistance Program (if available), education to the community, altering the housing situation of an accused student or resident employee (or the alleged victim, if desired), altering work arrangements for employees, providing campus escorts, implementing contact...
VI. Grievance Resolution

A. Conflict Resolution

Conflict resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Coordinator of Equity & Compliance will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conflict at issue and the success of the conflict resolution process. If a conflict resolution meeting, an EGP Coordinator will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Coordinator of Equity & Compliance will keep records of any resolution that is reached and failure to abide by the accord can result in appropriate responsive actions.

B. Resolution Without a Hearing

Resolution without a hearing can be pursued for any behavior that falls within the policy on Equal Opportunity, Harassment and Non-Discrimination, at any time during the process. The Coordinator of Equity & Compliance will provide written notification of a grievance to any member of the community who is accused of an offense of harassment, discrimination, or retaliation. The Coordinator of Equity & Compliance (together with the investigator(s)) will meet with the responding individual to explain the findings(s) of the investigation. Once informed, the responding party may choose to accept responsibility for all or part of the alleged policy violation(s) at any point in the process. If so, the impact of the respondent(s) will be considered for remediation. The remediation may include the respondent(s) making reparations to the victim and/or the community. The Coordinator of Equity & Compliance will recommend an equitable and effective outcome to the respondent(s) and the community, based on the effects of the admitted conduct upon the victim and/or the community. If either party rejects the sanction/responsive action, an EGP hearing will be held on the sanction/responsive action only, according to the EGP procedures below, except in the case of K-will employees for whom findings and responsive actions will be determined by the Director of Human Resources, in cooperation with the Coordinator of Equity & Compliance, based on the results of the investigation.

C. Formal Hearing

For any grievances that are not appropriate for conflict resolution and which are not resolved without a hearing, the Coordinator of Equity & Compliance will initiate a formal hearing for all employees for whom no hearing process is available and will refer her/his findings to the Director of Human Resources for joint implementation.

VII. Formal EGP Procedure

A. Hearing Panels

The Coordinator of Equity & Compliance will appoint a non-voting panel Chair (one of the EGP Co-Chairs or their designee) the Administrative Hearing Officer (or her/his designee), depending on whether the responding party is a faculty member, other employee, or student, and three members of the EGP to the hearing panel, none of whom have been previously involved in the grievance. EGP members who serve as investigators will be witnesses in the hearing of the grievance and therefore may not serve as hearing panel members. Hearing panels may include non-EGP faculty members with a least one faculty or academic affairs employee selected in a grievance involving a faculty member. No member of the panel may be a practicing attorney. The panel will meet at times determined by the Chair.

B. Notification of Charges

At least one week prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the EGP Co-Chair will send a letter to the parties with the following information. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The letter will contain:

- A description of the alleged violation(s), a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.

- The date, time, and location of the hearing and all other hearing-related activities, including surrogates of all other hearing-related activities. If any party does not attend the hearing, the hearing will be held in their absence. For compelling reasons, the Co-Chair may rescind the hearing.

- The parties may have the assistance of an EGP panel member, or other advocate (advisor), at the hearing. Typically, advisors are members of the campus community, but the Coordinator of Equity & Compliance may grant permission for an outside advocate upon request. The advocate may not make a presentation or represent the party brings a grievance or responding party during the hearing. The parties to the hearing are expected to ask and respond to questions on their own behalf, without representation by their advocates. The advocate may consult with the party only during recess, or outside the hearing during breaks, but may not speak on behalf of the advocate to the panel.

- Hearings that occur immediately following the end of an academic term will be held immediately after the end of the term or during the summer, as needed, to meet the hearing timeline followed by the College and remain within the 60-day goal for resolution.

C. Hearing Procedures

EGP hearings will be conducted, usually within one to two weeks of the completion of the investigation, and will be conducted in private. The EGP has the authority to hear all collateral misconduct, meaning that it hears all allegations of discrimination, harassment and retaliation, but also may hear any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within EGP jurisdiction. Accordingly, investigators should be conducted with as much speed as necessary.

Participants will include the non-voting Chair, the three members of the panel, the investigator(s) who conducted the investigation on the grievance, the party bringing a grievance and responding party(s) (or three organizational representatives in a case where an organization is charged), advocates (advocates) to the parties, and any called witnesses. The Chair will exchange the names of the parties, as well as state the factual basis for the investigation. The Chair will then conduct an explanation of evidence and procedures. The parties will be given a list of the parties and evidence. In addition, each of the EGP panel members will be introduced to the panel and brief the panel on the hearing. Should either (any) party object to any panelist, she/he must raise all objections, in writing, to the Chair immediately. Panel members will only be unseated if the Chair concludes that the bias prejudices an impartial hearing of the grievance. Additionally, any panelist or Chair who feels she/he cannot make an objective determination must recuse herself/himself from the proceedings when notified of the identity of the parties and all witnesses in advance of the hearing. The Chair will consult with the parties and investigators to determine in advance of the hearing which panel members may be present and which panel members must be absent. Any panel members who may be present and any panel members who must be absent will be identified in writing to the parties and EGP panel immediately. The panel will then be reconvened.

Once the Chair has canvassed the participants, the investigation will report the investigator(s) will present the report of the investigation first and be subject to questioning by the parties and the EGP. The investigator(s) will be present during the entire re-hearing process but will only be present during questioning of the Chair at the request of the Chair. The findings of the investigation are not binding on the panel, though any undisputed conclusions of the investigation report will be revisited, except as necessary to determine sanctions/responsive actions. Once the investigator(s) have addressed questions, the EGP will permit questioning of and by the parties and of any present witness. Questions may be
FORMAL RULES OF EVIDENCE WILL NOT APPLY. ANY EVIDENCE THAT THE PANEL BELIEVES IS RELEVANT AND CREDIBLE MAY BE CONSIDERED, INCLUDING HISTORY AND PATTERN EVIDENCE. THE PANEL WILL ADDRESS ANY EVIDENCE CONCERNING PRIOR TO AND/OR DURING THE HEARING, MAY EXCLUDE IRRELEVANT OR IMATERIAL EVIDENCE AND MAY ASK THE PANEL TO DISREGARD EVIDENCE LACKING IN CREDIBILITY. THE PANEL WILL DETERMINE ALL QUESTIONS OF PROCEDURE AND EVIDENCE. ANYONE APPEARING AT THE HEARING TO PROVIDE INFORMATION WILL RESPOND TO QUESTIONS ON HER/HS OWN BEHALF.

UNLESS THE PANEL DETERMINES IT IS APPROPRIATE, NO ONE WILL PRESENT INFORMATION OR MAKE QUESTIONS CONCERNING (1) INCIDENTS NOT DIRECTLY RELATED TO THE POSSIBLE VIOLATION, UNLESS THEY SHOW A PATTERN, (2) THE SEXUAL HISTORY OR OF THE CHARACTER OF THE ACTING PARTY BRINGING A GRIEVANCE.

THERE WILL BE NO OBSERVERS IN THE HEARING. THE PANEL MAY ALLOW WITNESSES WHO HAVE RELEVANT INFORMATION TO APPEAR AT A PORTION OF THE HEARING IN ORDER TO RESPOND TO SPECIFIC QUESTIONS FROM THE PANEL OR THE PARTIES INVOLVED. THE PANEL DOES NOT HEAR FROM CHARACTER WITNESSES BUT WILL ACCEPT UP TO TWO LETTERS SUPPORTING THE CHARACTER OF THE INDIVIDUALS INVOLVED.

IN HEARINGS INVOVING MORE THAN ONE ACCUSED INDIVIDUAL OR IN WHICH TWO PARTIES BRINGING A GRIEVANCES HAVE ACCUSED THE SAME INDIVIDUAL OF SUBSTANTIALLY SIMILAR CONDUCT, THE STANDARD PROCEDURE WILL BE TO HEAR THE GRIEVANCES SEPARATELY, HOWEVER, THE COORDINATOR OF EQUITY & COMPLIANCE MAY PERMIT THE HEARING PERTAINING TO EACH RESPONDING PARTY TO BE CONDUCTED SEPARATELY. IN JOINT HEARINGS, SEPARATE DETERMINATIONS OF THE RESPONSIBILITY WILL BE MADE FOR EACH RESPONDING PARTY.

PROCEEDINGS ARE PRIOR. ALL PERSONS PRESENT AT ANY TIME DURING THE HEARING ARE EXPECTED TO MAINTAIN THE PRIVACY OF THE PROCEEDINGS, SUBJECT TO COLLEGE CONSEQUENCES FOR FAILURE TO DO SO. WHILE THE CONTENTS OF THE HEARING ARE PRIVATE, THE PARTIES HAVE DISCRETION TO SHARE THEIR OWN EXPERIENCES IF THEY SO CHOOSE AND SHOULD DISCUSS DOING SO WITH THEIR ADVOCATES.

Hearings are recorded for purposes of review in the event of an appeal. EGP members, the parties and/or the persons who initiated the action, and appropriate administrative officials will be allowed to listen to the recordings in a location determined by the Coordinator of Equity & Compliance or designee. No person will be shown or be allowed to make a copy of the recording without the permission of the Coordinator of Equity & Compliance. Persons given access to the recording will be required to sign an agreement confirming that they will protect the privacy of the information contained in the recording.

D. Decisions

The EGP will deliberate in closed session to determine whether the responding party is responsible or not responsible for the violation(s) in question. The panel will base its determination on a preponderance of the evidence (i.e., whether it is more likely than not that the accused individual committed each alleged violation). If an individual responding party or organization is found responsible by a majority of the panel, the panel will recommend appropriate sanctions to the Coordinator of Equity & Compliance.

The panel will prepare a written decision report and deliver it to the Coordinator of Equity & Compliance, detailing the findings, how each member voted, the information cited by the panel in support of its recommendation and any information the hearing panel excluded from its consideration and why. The report should conclude with any recommended sanctions. This report should not exceed two pages in length and must be submitted to the Coordinator of Equity & Compliance within two (2) days of the end of deliberating.

The Coordinator of Equity & Compliance will inform the responding party and the party bringing a grievance of the final determination within 2-3 business days of the hearing, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties’ College-issued email account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

E. Sanctions

Sanctions or responsive actions will be determined by the EGP. Factors considered when determining a sanction/response action may include

- The nature, severity of, and circumstances surrounding the violation
- An individual’s disciplinary history
- Previous grievances or allegations involving similar conduct
- Any other information deemed relevant by the EGP

The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation

The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation

The need to remedy the effects of the discrimination, harassment, and/or retaliation on the victim and the community

1. Examples of Possible Student Sanctions

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- **Warning:** A formal statement that the behavior was unacceptable and a warning that further infractions of any College policy, procedure or directive will result in more severe sanctions.
- **Suspension:** Banning a student from the campus for a period of time. This period of suspension will be determined by the Panel. The Panel will consider the nature of the violation, the student’s prior disciplinary record, and any mitigating circumstances.
- **Expulsion:** Permanent termination of student status. A written notice of rights to appeal will be sent to the student.
- **Distribution:** Requirement of student status, revocation of rights or permission to be on campus for any reason or attend College-sponsored events. This sanction will be noted as a Conduct Expulsion on the student’s official transcript.
- **Withholding of Degree:** The College may withhold a student’s diploma for a specified period of time and/or deny a student participation in commencement activities if the student has a grievance pending or as a sanction if the student is found responsible for an alleged violation.
- **Revocation of Degree:** The College reserves the right to revoke a degree awarded from the College for fraud, misrepresentation, or violation of College policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- **Disciplinary Sanctions:** Distribution of information, loss of all privileges (including University registration), for a specified period of time.
- **Other Actions:** In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

2. Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include warning, required counseling, demotion, suspension without pay, and/or termination.

F. Withdrawal or Resignation While Charges Pending

Students: The College does not permit a student to withdraw if that student has a grievance pending for violation of the policy on Equal Opportunity, Harassment and Non-Discrimination, or for charges under the Code of Student Conduct. Should a student decide to leave and not participate in the investigation and/or hearing, the process will nonetheless proceed in the student’s absence to a reasonable resolution and that student will not be permitted to return to College unless all sanctions have been satisfied.

Employees: Should an employee resign while charges are pending, the records of the Coordinator of Equity & Compliance will reflect that status, as will College responses to any future inquiries regarding employment references for that individual. The Coordinator of Equity & Compliance will act to promptly and effectively remedy the effects of the conduct upon the victim and the community.

G. Appeals

All requests for appeal considerations must be submitted in writing to the Coordinator of Equity & Compliance within thirty business days of the delivery of the written finding of the EGP.

A three-member panel of the EGP designated by the Coordinator of Equity & Compliance who was not involved in the grievance previously will consider all appeal requests. Any party may appeal, but appeals are limited to the following:

- **Procedural Error:** Where it is determined that there was a violation of this policy or any established procedure (e.g., substantiation basis, material deviation from established procedures, etc.).
- **To Consider New Evidence:** Where new or unavailable evidence during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- **The Sanctions fall outside the range of sanctions the College has designated for this offense.**

The appeals panel of the EGP will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or if based on the grounds listed above, and such a decision is final. When any party requests an appeal, the other party (parties) will be notified and joined in the appeal. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are
Failure to Complete Sanctions/Comply with Responsive Actions

All responding parties are expected to comply with conduct sanctions/responsive/corrective actions within the time frame specified by the Coordinator of Equity & Compliance. Failure to follow through on conduct sanctions/responsive/corrective actions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion, and/or termination from the College and may be noted on a student’s official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Coordinator of Equity & Compliance.

I. Records

In implementing this policy, records of all grievances, resolutions, and hearings will be kept by the Coordinator of Equity & Compliance indefinitely in the Coordinator’s designated office and/or filing system.

J. Statement of the Rights of a Party Bringing a Grievance

- To be treated with respect by College officials.
- To take advantage of campus support resources (such as counseling services, the Hutchinson Area Student Health Services for students, or EAP services for employees [if such program is available]).
- To experience a safe living, educational, and work environment.
- To have an advocate (Advisor), if desired, during this process.
- To refuse to have an allegation resolved through conduct resolution procedures.
- To receive notice of minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- To be free from retaliation.
- To have grievances heard in substantial accordance with these procedures.
- To full participation of the injured party in any EGP process whether the injured party is serving as the party bringing a grievance or the College is serving as party bringing a grievance.
- To be informed in writing of the outcome/resolution of the grievance, sanctions where permissible, and the rationale for the outcome where permissible.
- To refer to law enforcement and have assistance.
- To housing and living accommodations.
- To no contact.

K. Statement of the Rights of the Responding Party

- To be treated with respect by College officials.
- To take advantage of campus support resources (such as counseling services, the Hutchinson Area Student Health Services for students, or EAP services for employees [if such program is available]).
- To have an advocate (Advisor), if desired, during this process.
- To refuse to have an allegation resolved through conduct resolution procedures.
- To have grievances heard in substantial accordance with these procedures.

VI. Revision

These policies and procedures will be reviewed and updated annually by the Coordinator of Equity & Compliance. The Coordinator of Equity & Compliance may make minor modifications to procedure that do not materially broaden the fairness owed to any party. However, the Coordinator of Equity & Compliance may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of its implementation will apply. Policy in effect at the time of the offense will apply even if the policy is changed subsequently, unless the parties consent to be bound by the current policy.

This policy and procedure was originally approved by the Board of Trustees on January 15, 2015.


[2] SPECIFIC REQUIREMENTS AND TIME FRAMES MAY EXIST FOR FILING COMPLAINTS WITH THESE AGENCIES.

[3] THE DETERMINATION OF WHETHER AN ENVIRONMENT IS "HOSTILE" MUST BE BASED ON ALL OF THE CIRCUMSTANCES. THESE CIRCUMSTANCES COULD INCLUDE

- THE FREQUENCY OF CONDUCT;
- THE NATURE AND SEVERITY OF THE CONDUCT;
- WHETHER THE CONDUCT WAS PHYSICALLY THREATENING;
- WHETHER THE CONDUCT WAS HUMILIATING;
- WHETHER THE EFFECT OF THE CONDUCT ON THE COMPLAINANT’S MENTAL OR EMOTIONAL STATE;
- WHETHER THE CONDUCT WAS DIRECTED AT MORE THAN ONE PERSON;
- WHETHER THE CONDUCT AROSE IN THE CONTEXT OF ANOTHER DISCRIMINATORY CONDUCT;
- WHETHER THE COMPLAINT ANCESTRESS INTERFERED WITH THE COMPLAINANT’S EDUCATIONAL WORK PERFORMANCE;
- WHETHER THE SPEECH OR CONDUCT CONSTITUTES THE PROTECTIONS OF ACCOUNTABILITY IN THE 1ST AMENDMENT.


[6] SOME EXAMPLES OF POSSIBLE SEXUAL HARASSMENT INCLUDE

- A PROFESSOR INSISTS THAT A STUDENT HAVE SEX WITH HIM/HER IN EXCHANGE FOR A GOOD GRADE. THIS IS HARASSMENT REGARDLESS OF WHETHER THE STUDENT ACCcedes TO THE REQUEST.
- A STUDENT REPORTEDLY SENDS SEXUALLY ORIENTED JOKES AROUND ON AN EMAIL LIST SHE CREATED, EVEN WHEN ASKED TO STOP, CAUSING ONE RECIPIENT TO AVOID THE SENDER ON CAMPUS AND IN THE RESIDENCE HALL IN WHICH THEY BOTH LIVE.
- A STUDENT REPORTEDLY SUGGESTS SEXUAL PICTURES BE DISPLAYED IN A PROFESSOR’S OFFICE OR ON THE RESIDENCE HALL DOOR.
- TWO SUPERVISORS FREQUENTLY "KAT THE SEVERAL EMPLOYEE’S BODIES AND SEXUAL ATTIRE, COMMENTING SUGGESTIVELY ABOUT THEIR CLOTHING AND APPEARANCE.
- A PROFESSOR ENGAGES STUDENTS IN HER CLASS IN DISCUSSIONS ABOUT THEIR PAST SEXUAL EXPERIENCES, YET THE CONVERSATION IS NOT IN ANY WAY PROFESSIONAL OR SUBJECT OF SUBSTANCE. SHE PROD AND DEMANDS THAT STUDENTS ASK HER TO DO IT, MAYBE UNTIL SEVERAL FOR HIS PERSONAL AFFAIRS.
- AN EX-GFREDFRIEND WIDESPREADLY SPREADS FALSE STORIES ABOUT HER SEX LIFE WITH HER FORMER BOYFRIEND TO THE CLEAR DISCOMFORT OF THE BOYFRIEND, TURNING HIM INTO A SOCIAL PARiah ON CAMPUS.
- MALE STUDENTS TAKE TO CALLING A PARTICULAR BRUNETTE STUDENT "MODICA" BECAUSE OF HER RESONANCE TO MODICA LEONARDI. Modica, everyone adopts this nickname for her, and she is the target of repeatedness remarks about herasts, the president, "sexual relations," and "anorexic watchers."
A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

There are various types of sexual violence, including:

- Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, and
- Submission or rejection of such conduct results in adverse educational actions or
- Injures or otherwise adversely affects such conduct.

[7] Preparatory 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.

[8] The statute of limitation for sexual offenses is 15 years before the date of the violation.

[9] The statute of limitations for crimes is 15 years before the date of the violation.

[10] Force is the use of physical violence and/or imposing on someone physically to cause sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent.

- Coercion is unreasonable for security purposes. Coercion behavior differs from seductive behavior based on the type of pressures someone uses to get consent from another. When someone makes clear to you that they do not want sex, that you want to stop, or that they do not go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- Note: There is no requirement that a party resists the sexual act or attempt, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition coerced.

- Possession, use, and/or distribution of any of these substances, including, but not limited to, Rohypnol, Ketamine, GHB, Benzodiazepine, etc., is prohibited, and administering one of these drugs to another student is a violation of this policy. More information about these drugs can be found at http://www.911xrape.org/

[11] The statute of limitation for crimes is 15 years before the date of the violation.

[12] The statute of limitation for crimes is 15 years before the date of the violation.

[13] The statute of limitation for crimes is 15 years before the date of the violation.

[14] The statute of limitation for crimes is 15 years before the date of the violation.

[15] The statute of limitation for crimes is 15 years before the date of the violation.

[16] The statute of limitation for crimes is 15 years before the date of the violation.

[17] The statute of limitation for crimes is 15 years before the date of the violation.
Joe is a student on campus who has always been fascinated by women who dye their hair. One day, he notices Mary Lou, whose hair is dyed a very bright purple. He follows her home to see where she lives and begins to track her history, actions, and movements online. His fascination increases to the point where he follows her frequently on campus, takes pictures of her without her permission, and spies through her window at night with a long-range camera lens. He wants to have her beautiful purple hair for his own so that he can stroke it whenever he wants.

While these off-campus counselors and agencies may maintain a victim’s confidentiality vis-à-vis the College, they may have reporting or other obligations under state law.

A “responsible employee” is a College employee who has the authority to redress sexual harassment or sexual misconduct, who has the duty to report incidents of sexual harassment or sexual misconduct, or who a student could reasonably believe to have this authority or duty. A responsible employee should work to ensure that the reporting party understands the employee’s obligations.

If circumstances require, the President of the College or Coordinator of Equity & Compliance may designate another person to oversee the process below, should a grievance be made against the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill her/his duties.