

Section 23 - Non-Discrimination and Sexual Harassment Policy and Procedures

[rev. 8:9/13/04]

POLICY

Cambridge College is committed to providing equal opportunity in education and employment to all student applicants, students, employees and applicants for employment. The College fully supports the right of all persons to apply for academic programs and employment without suffering sexual harassment or unlawful discrimination of any kind. It is the policy of the College to maintain a work and academic environment that is free of sexual harassment and unlawful discriminatory actions based on race, color, national origin, citizenship, religion, gender, sexual orientation, pregnancy, age, marital status, disability, genetic information, veteran's status, sexual identity, or any legally protected status.

Unlawful discrimination and/or sexual harassment against students, faculty, and employees of the College by officers, faculty, managers/supervisors, employees, advisors/consultants, vendors, clientele, students, and contractors will not be tolerated. Every employee and student of the College is responsible for ensuring that her or his conduct does not sexually harass or unlawfully discriminate against anyone in the Cambridge College community. Any student, faculty member, or employee who believes that she or he has been the victim of sexual harassment or discrimination should report the matter immediately through the procedure(s) described below.

DEFINITIONS

A. UNLAWFUL DISCRIMINATION

Discrimination against a student, faculty member, or employee in the terms and conditions of their student status or employment on the basis of their race, color, national origin, citizenship, religion, gender, sexual orientation, pregnancy, age, disability, genetic information, veteran's status, sexual identity, or any legally protected status that is unlawful under federal and/or state law constitutes a violation of College policy and violators are subject to disciplinary action.

B. SEXUAL HARASSMENT

Sexual harassment is a form of sex discrimination that is illegal under both federal and Massachusetts state law, including Title VII of the Civil Rights Act of 1964, and Massachusetts General Law, c.151B-Section IV(16A) and 151C-Section II. These laws provide that unwelcome sexual advances, requests for sexual favors and other physical or verbal conduct of a sexual nature constitute sexual harassment when:

- Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of an individual's employment (or) her/his status or

entitlements as a student (or) as a basis for employment or academic decisions affecting the individual; (or)

- Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating, hostile, humiliating, or sexually offensive academic or work environment.

CONDUCT WHICH MAY CONSTITUTE UNLAWFUL SEXUAL HARASSMENT

Sexual harassment refers to behavior that is *not welcomed* and can occur in a variety of situations which share a common element, i.e. the inappropriate introduction of sexual activities or sexual comments into the academic or work environment.

Sexual harassment often involves relationships of unequal power. Such situations may contain elements of coercion, as when compliance with requests for sexual favors becomes a condition for granting privileges or favorable treatment.

However, sexual harassment may also involve relationships among persons of equal authority or power, such as when repeated advances or demeaning verbal comments by a student or worker towards another fellow student or co-worker are unwelcomed and have a harmful effect on the person's ability to perform academically or her/his work. Sexual harassment may also involve student and employee behavior directed at non-students or non-employees or non-student or non-employee behavior directed at students or employees.

Depending on the circumstances, examples of sexual harassment could include such conduct as listed below. *This list is not exhaustive.*

- Repeated offensive sexual flirtations, advances or propositions;
- Offensive verbal comments, jokes, or innuendo, of a sexual nature which are continued or repeated;
- Physical contact, such as touching, hugging, patting, or pinching, which is uninvited and unwanted by the other person;
- An open display of sexually suggestive objects or pictures, if people find them offensive;
- Obscene gestures or suggestive or insulting sounds made towards people who find them offensive;
- The demand for sexual favors, particularly, but not only, in exchange for academic or job benefits or enhancements;
- Romantic involvement between a faculty member and a student or a supervisor and an employee which negatively impacts one of the parties in the academic environment or workplace in areas such as educational assignments, grades, job/work assignments, advancements, benefits, salary decisions, etc.

CONDUCT WHICH MAY CONSTITUTE UNLAWFUL DISCRIMINATION

Depending on the circumstances, examples of unlawful discrimination could include the above-referenced examples concerning sexual harassment, as well as the following types of conduct. It provides some examples of conduct which could constitute unlawful discrimination, depending on the circumstances. *This list is not exhaustive.*

- Verbal abuse or innuendo, which is continued or repeated, concerning a person's race, color, national origin, citizenship, religion, gender, sexual orientation, sexual identity, pregnancy, age, marital status, disability, genetic information, veteran's status, or other legally protected categories;
- An inappropriate display of objects, pictures, or other representations offensive to an individual's particular race, color, national origin, citizenship, religion, gender, sexual orientation, sexual identity, pregnancy, age, marital status, disability, genetic information, veteran's status, or other legally protected categories;
- Use of derogatory words to describe an individual's race, color, national origin, citizenship, religion, gender, sexual orientation, sexual identity, pregnancy, age, marital status, disability, genetic information, veteran's status, or other legally protected categories;
- Making decisions about an individual's student status or employment status based on her or his race, color, national origin, citizenship, religion, gender, sexual orientation, sexual identity, pregnancy, age, marital status, disability, genetic information, veteran's status, or other legally protected categories.
- Making decisions about an individual's student status or employment status based on their acting on their rights under the sexual harassment and/or discrimination policy or laws.

CONFIDENTIALITY

The investigation and resolution of sexual harassment and discrimination complaints shall be conducted with as much confidentiality as is reasonably possible, without compromising the thoroughness of the investigation or the rights of the alleged offender or the ability of the College to fulfill its commitment to resolve and avert unlawful treatment of members of its learning community. No disclosure of any information shared by the complainant will be made to the alleged offender or witness(es) without the written permission of the complainant. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the requirements of the applicable laws. In order to protect the dignity and privacy of those concerned, individuals with complaints or concerns about sexual harassment or discrimination are encouraged to direct their communications through appropriate channels as described below, and to avoid unnecessary discussion of specifics within the College community.

INFORMAL RESOLUTION PROCEDURES

A student, faculty member, or employee who experiences or witnesses sexual harassment or discrimination may first attempt to resolve the matter informally by discussion with the person or persons involved. Where direct discussion is too difficult, or has failed to resolve the matter, or it is uncertain as to whether discrimination or harassment has occurred, the complainant should:

- if a student or faculty member, consult with either the Dean of the particular School, Program Director or Coordinator, the VP for Academic Affairs, Office of Student Services, and/or the EVP Finance & Administration, and/or the Office of Human Resources, and may bring a personal advisor to such a consultation, if desired.
- if a non-faculty employee, consult with her or his direct supervisor or department head, and/or the Director of Human Resources, and/or the VP of Finance & Administration, and may bring a personal advisor to such a consultation, if desired.

During such a consultation, the complainant should fully discuss the facts surrounding the allegations of discrimination or harassment and any remedial action that is desired. At this point an informal resolution will be defined and sought, in order to resolve the matter to the satisfaction of those involved and to assure that no repetition will occur. If no resolution has been reached within 10 days and/or the matter is deemed urgent, the formal resolution procedure may be instituted, if appropriate, by the complainant and/or any of the above-mentioned College officials. If resolution is reached, it should be documented with the complainant and kept in a confidential file in the Office of the VP for Academic Affairs or the Office of Human Resources, as appropriate, separate from student academic files/records or employees' personnel files.

FORMAL RESOLUTION PROCEDURES

If informal procedures are inappropriate or fail to provide a satisfactory resolution, the complainant and/or College official(s), if appropriate, as identified in the informal procedures, may institute a formal resolution process. If so, the complainant will be asked to submit a written statement of the facts authorizing College officials to handle the complaint, and which describes the alleged acts of harassment or discrimination, identifies the witness(es)/ (if any), identifies the location of any corroborating evidence, and provides any other directly relevant information. Within 10 days, if reasonably possible, the College official(s) handling the complaint will conduct and complete an equitable and thorough formal investigation of the matter. To the extent practical, all investigations will not only include private interviews with the complainant, but the person alleged to have committed the harassment or discrimination, and third-party witnesses, and will include consideration of other relevant evidence. When the investigation is completed, to the extent appropriate, the complainant and the person alleged to have committed the conduct will be informed of the results and any remedial actions and/or disciplinary actions that are considered appropriate. All actions must be consistent with legal requirements and with collective bargaining agreements in the College. The results of the formal investigation will be documented and filed in a confidential file in the Office of the VP for Academic Affairs and/or the Office of Human Resources, as appropriate. The College may employ the services of a professional investigative service to facilitate objectivity and fairness. The College has the right to call in a third party investigator.

REMEDIAL ACTION

If the investigation reveals that sexual harassment or discrimination has occurred, appropriate remedial action may include discipline, discharge, or a request for resignation from the College. After taking into consideration the complainant's requested remedial action, the VP

for Academic Affairs, the EVP Finance and Administration, and the Office of Human Resources shall be the final decision-makers regarding the remedial action called for. The College reserves the right to contact state and local law enforcement officials as appropriate or as may be required by law.

NONRETALIATION POLICY

Any person who has a problem or question concerning sexual harassment or discrimination should feel free to use the College resolution procedures without threat of intimidation, retaliation, or harassment. Retaliatory action of any kind against an individual who makes use of these resolution procedures is prohibited and will be regarded as a separate and distinct violation of this policy.

STATE AND FEDERAL REMEDIES

If you believe that you have been subjected to sexual harassment or unlawful discrimination, you may file a formal complaint with either or both of the government agencies listed below. Using the College complaint resolution process does not prohibit your filing a complaint with these agencies. Each of the agencies has a short timeframe for filing a claim: MCAD-300 days; EEOC-180 days.

- The United States Equal Employment Opportunity Commission(EEOC)
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
(617) 565-3200 or 1-800-669-4000
- Massachusetts Commission Against Discrimination (MCAD)

One Ashburton Place	424 Dwight Street
Boston, MA 02108	Springfield, MA 01103
(617) 727-3990	(413) 739-2145

DISCLAIMER

This policy is a guideline that is subject to change by the College at its discretion without prior notice to members of the College community; no such change shall be made in violation of applicable law or a negotiated agreement of a bargaining unit contract. This policy shall not be construed as a contract of student academic status or employment or the terms thereof, nor shall this policy itself give rise to any claim against the College or against any person charged with responsibility, if not followed.