



VASSAR COLLEGE

NONDISCRIMINATION AND NONHARASSMENT POLICY

A. Policy Statement

It is the policy of Vassar College to provide a working and learning environment free from discrimination or harassment. In accordance with state and federal law, discrimination or harassment by members of the College community against members of the college community based on the following: race, color, religious belief, sex, marital status, disability, sexual orientation, gender identity or expression, national or ethnic origin, veteran status or age is not permissible.¹ Additionally, should state or federal law be enacted during the period this policy is extant which prohibits discrimination or harassment based upon a group's protected status not listed in the above categories, this policy will be deemed amended to afford protection to such groups. The community is further advised that recourse can be sought through the Equal Employment Opportunity Commission (EEOC), the Office of Civil Rights (OCR), the State Division of Human Rights, or the Courts. Vassar College's nondiscrimination and nonharassment policy does not limit the rights of an individual to seek remedies available under state or federal law.²

B. Definitions

1. Discrimination is defined, for the purpose of this policy, as any decision, act, or failure to act which interferes with or limits a person's or group's ability to participate in or benefit from the services, privileges, or activities of the College when such decision, act, or

¹ Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex and national origin. The Department of Education's Office of Civil Rights (OCR) enforces several statutes that protect the rights of beneficiaries in programs or activities that receive federal financial assistance. These laws prohibit discrimination on the basis of race, color, or national origin (Title VI of the Civil Rights Act of 1964), sex (Title IX of the Education Amendments of 1972), disability (Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990), and age (Age Discrimination Act of 1975).

² In defining groups protected by this policy, the Vassar community is advised that the intent of this policy is to provide protection to the groups recognized as protected under state and/or federal non-discrimination laws applicable to the College. The following is provided to offer further explanation regarding legal definition of some of the groups enumerated:

1. The policy mentions a prohibition against discrimination and harassment on the basis of "sex" and does not also mention "gender" as a protected category. This is because federal non-discrimination law (ie., Title VII), currently recognizes that a prohibition against discrimination or harassment on the basis of sex, encompasses sex and gender.

2. Vassar's policy includes "gender identity or expression" as a specific category. Under current State discrimination law applicable to Vassar College, "sexual orientation" is defined to include "...heterosexuality, homosexuality, bi -sexuality, or asexuality, whether actual or perceived." The law also protects transgender persons, based on their actual or perceived sexual orientation."

3. Federal case law has defined religious beliefs (for the purpose of non-discrimination) as embracing sincere and meaningful beliefs that are held with the strength of more traditional religious convictions or that occupy a place in the life of the individual concerned parallel to that filled by an orthodox belief in God.

failure to act is based on race, color, religious belief, sex, marital status, sexual orientation, gender identity or expression, national or ethnic origin, disability, veteran status, or age.³

Harassment is defined, for the purpose of this policy, as unwelcome and unauthorized incidents and/or patterns of conduct and/or speech that are severe, persistent or pervasive when such conduct or action is based on a person's or persons' race, color, religious belief, sex, marital status, sexual orientation, gender identity or expression, national or ethnic origin, disability, veteran status or age, and which:

- a) The harasser either knows, or should know, will have the effect of making the College environment hostile, intimidating, or demeaning to the victim, and
- b) in fact renders the College environment (including the work or study environment) hostile, intimidating, or demeaning for the victim.

Sexual Harassment is defined, for the purposes of this policy as follows: unwelcome sexual advances, requests, and other unwelcome conduct of a sexual nature where:

- a) submission to such conduct is made, either expressly or implicitly, a term or condition of an individual's employment or education; or
- b) submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual; or
- c) such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or of creating an intimidating, hostile or demeaning employment or educational environment.

C. The Office of Equal Opportunity and Affirmative Action

The Office of Equal Opportunity and Affirmative Action handles inquires about issues of discrimination and harassment within the campus community, and provides counsel on the College's nondiscrimination and nonharassment policy and procedures. The work of the office is carried out by the equal opportunity and affirmative action (EO/AA) officer and the faculty director of affirmative action, in consultation and collaboration with the Advisory Committee on Equal Opportunity and Affirmative Action, senior officers, human resources, and with other members of the campus community as appropriate.

The faculty director of affirmative action provides counsel and assistance to faculty concerning nondiscrimination and harassment policies and procedures, and shall oversee the proper conduct of all grievances and informal resolution measures involving faculty under these policies. The equal opportunity and affirmative action officer provides counsel and assistance to students, administrators, and staff concerning nondiscrimination and nonharassment policies and

³ Disagreements or denials of disability-related accommodations or auxiliary aids and services, modifications to a College program or activity as related to disability needs, or inaccessibility to College facilities or programs may be appealed to the Faculty Director of Affirmative Action who has been designated to coordinate the College's compliance with the Americans with Disabilities Act of 1990 and with Section 504 of the Rehabilitation Act of 1973.

procedures, and shall oversee the proper conduct of grievances and informal resolution measures which involve only students, administration or staff. The equal opportunity and affirmative action officer and the faculty director of affirmative action regularly consult with each other to ensure that the policies of the college are consistently applied. Neither officer makes a final determination of the guilt or innocence of anyone involved in a complaint. When necessary in the performance of their duties, the equal opportunity and affirmative action officer and the faculty director of affirmative action may consult legal counsel. If the EO/AA officer or the faculty director of affirmative action for any reason of conflict of interest, illness, or prolonged absence is unable to carry out his or her responsibilities, a designee shall be appointed by the President.

Vassar College has designed its grievance process as an internal method for resolving complaints of discrimination or harassment which may arise within the College community. The grievance procedures are designed to bring about prompt and equitable resolutions for alleged discrimination or harassment. Appropriate resolutions include, but are not limited to, efforts toward education, mediation, intervention and/or discipline.

D. Confidentiality

Vassar College will endeavor to maintain confidentiality in all informal and formal proceedings, except as otherwise specified in these statements of procedure. All documents relating to the alleged incident of discrimination or harassment will be maintained as confidential. Participants are authorized to discuss the case only with those persons who have a genuine need to know.

E. Protection Against Reprisal

Retaliation or retribution of any kind taken against an individual as a result of that person filing a complaint in good faith, cooperating in an investigation, or otherwise participating in these procedures is strictly prohibited. Any attempt to retaliate against an individual for bringing a sincere complaint may in itself be treated as a form of harassment. Similarly, a complaint that is malicious and groundless may be treated as an attempt to harass the respondent.

F. Preliminary Consultations

1. Any member of the community who approaches any office or individual with a concern about treatment by or involving a faculty member, which seems to violate the college's nondiscrimination and nonharassment policy should be referred to the faculty director of affirmative action for discussion of the issues. In all cases the faculty director of affirmative action provides counsel and assists him or her in determining whether the complaint is appropriate for grievance, and provides counsel on the College's nondiscrimination and nonharassment policy and informal and formal grievance procedures. Discussing a complaint with the faculty director of affirmative action does not commit one to making a formal charge. The faculty director of affirmative action consults regularly with the equal opportunity/affirmative action officer about cases involving faculty and other members of the community.
2. Any member of the community who approaches any office or individual with a concern about treatment by or involving a student or member of the staff or administration (and not involving faculty), which seems to violate the college's nondiscrimination and nonharassment policy should be referred to the equal opportunity/affirmative action

officer (EO/AA) for discussion of the issues. In all cases the equal opportunity/affirmative action officer provides counsel and assists him or her in determining whether the complaint is appropriate for grievance, and provides counsel on the College's nondiscrimination and nonharassment policy and informal and formal grievance procedures. Discussing a complaint with the equal opportunity/affirmative action officer does not commit one to making a formal charge.

3. Employees at Vassar who are represented by a labor union are covered by collective bargaining agreements, which include arbitration procedures and equal opportunity provisions. While it is generally understood that those procedures shall be used by union employees for grievances, the grievance procedures outlined here are available to members of the union, in consultation with union officials, consistent with contractual agreements.
4. Faculty, administrators, and staff who have supervisory responsibilities and who become aware of harassment or discrimination must prevent its continuation through informal mediation, or when appropriate, by making referrals to either the faculty director of affirmative action or the equal opportunity/affirmative action officer as appropriate.
5. Vassar College encourages the use of mediation to resolve discrimination or harassment disputes and complaints.⁴ Students, faculty and staff who are experiencing harassment or discrimination may wish to achieve an informal solution to the problem, and may request that their complaint be resolved with the assistance of a trained mediator.
6. If the faculty director of affirmative action or the equal opportunity/affirmative action officer, as appropriate, judges that the complaint warrants continuation with grievance procedures, the faculty director of affirmative action or the equal opportunity/affirmative action officer in most cases shall recommend mediation with the aim of achieving an informal resolution. The complainant, however, may file a formal grievance with the Office of Equal Opportunity and Affirmative Action in lieu of using the mediation process. The faculty director of affirmative action or the equal opportunity/affirmative action officer, as appropriate, may judge that there is not sufficient evidence of a violation of the College's nondiscrimination and nonharassment policy. If the complainant disagrees with the finding, he or she may request the grievance complaint to be forwarded to the Grievance Hearing Panel or the College Regulations Panel, as appropriate.

G. Seeking Mediation

1. Informal resolution procedures are intended to allow the complainant and the respondent to provide detailed information about the alleged incident(s) of discrimination or harassment and reach a mutually agreeable resolution. The mediation process aims to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties.

⁴ Mediation is an informal process through which an impartial third party helps disputing parties find mutually satisfactory resolutions to their differences. Mediation proceedings are confidential and voluntary for all parties. The mediation process affords the opportunity to present information about the alleged incident(s) of discrimination or harassment, and resolve the dispute.

2. With consent of both the complainant and the respondent, the Office of Equal Opportunity and Affirmative Action will contact a mediator whose training is appropriate to the conflict to be resolved. The mediator is not an advocate for either the complainant or the respondent. The role of the mediator is to aid in the resolution of problems in a non-adversarial manner.
3. The informal resolution process ends when a resolution has been reached or when the complainant or the respondent has terminated the process. At any time during the mediation process, the complainant and the respondent are free to withdraw consent. A successful informal resolution results in a binding agreement between the parties.
4. The mediator shall notify the faculty director of affirmative action or the equal opportunity/affirmative action officer, as appropriate, of the result of the mediation process. If the dispute is not resolved through mediation, the faculty director of affirmative action or the equal opportunity/affirmative action officer shall immediately inform all affected parties and discuss with the complainant other alternatives for achieving resolution. The complainant may file a formal grievance with the Office of Equal Opportunity and Affirmative Action or withdraw the informal complaint. The informal resolution process, if unsuccessful, will not prejudice the rights of either party in the dispute. Therefore, should the informal resolution be unsuccessful, neither the reasons for the failure of the mediation nor any material or statements made during the process will be used in any subsequent proceedings or forums.
5. No written records of the mediation process, other than the final resolution, shall be retained by the faculty director of affirmative action or the equal opportunity/affirmative action officer. Original documents shall be returned to their original source or to another site as agreed in the resolution by the complainant and the respondent.

H. Formal Grievance Procedure: Filing Complaints, Preliminary Investigation, and Finding

The complainant may choose to initiate a formal grievance and hearing procedure by requesting that the complaint be forwarded to the Grievance Hearing Panel or to the College Regulations Panel, as appropriate. (Grievances concerning faculty contracts, appointments, and promotions should go to the faculty Appeal Committee or faculty Review Committee, and grievances concerning ADA/Section 504 issues should follow the Disability Accommodations and Support Services Policy, as specified in the [Faculty Handbook](#).) Formal grievance procedures are initiated by filing a written and signed complaint with the faculty director of affirmative action or the equal opportunity/affirmative action officer, as outlined below.

1. When to File a Complaint
 - a) A grievant should file a written complaint within 60 days of the last date of the alleged incident(s) of discrimination or harassment, or within 30 days of the end date of the mediation process described above. Individuals should note that the state and federal statute of limitations for discrimination and harassment is typically 180 days.
 - b) Whenever the application of any time deadline or procedure set forth in the grievance procedure creates a problem owing to the nature of the complaint or the urgency of the matter, the faculty director of affirmative action or the equal opportunity/affirmative action officer, as appropriate, will determine whether an

appropriately expedited grievance procedure can be fashioned. Time periods may be extended if the grievant has good reason as determined by the faculty director of affirmative action or the equal opportunity/affirmative action officer, as appropriate.

2. What to File

A complaint must be in writing and include the following:

- a) The grievant's name, address, phone number, and employment or academic class status.
- b) A complete and detailed description of the alleged incident(s) of discrimination or harassment.
- c) The grievant's signature with date of signing.

3. Where to File

The complaint must be hand delivered or sent by certified mail to the Office of Equal Opportunity and Affirmative Action, directed to the attention of the faculty director of affirmative action or the EO/AA officer, as appropriate. Office of Equal Opportunity and Affirmative Action, Vassar College, campus box 645, 124 Raymond Ave, Poughkeepsie NY 12604.

4. Preliminary Review of Complaint and Notice of Receipt

- a) Upon receipt of a complaint, the faculty director of affirmative action or the EO/AA officer, as appropriate will review the complaint for appropriateness and timeliness. The faculty director of affirmative action, or the EO/AA officer, as appropriate, will provide the grievant with written notice of receipt of the complaint within 5 working days, and will advise the grievant of the College's grievance procedures and forms of relief.
- b) Formal grievance complaints require that the respondent be advised of the allegations and the source of the complaint by the faculty director of affirmative action or the equal opportunity/affirmative action officer, as appropriate. The faculty director of affirmative action or the equal opportunity/affirmative action officer, as appropriate, will provide the respondent with a copy of the formal grievance complaint within 5 working days of receipt of the complaint, and will advise the respondent of the College grievance policy and procedures.
- c) The faculty director of affirmative action or the equal opportunity/affirmative action officer, as appropriate, shall discuss with the grievant whether or not the alleged incidents of discrimination or harassment constitute a violation of the College's nondiscrimination and nonharassment policy, and whether or not it is appropriate to convene a Grievance Hearing Panel. The decision to request a Grievance Hearing Panel rests with the grievant.

- d) If the respondent is a member of the faculty, staff, or administration, and the grievant requests a Grievance Hearing Panel, the grievance shall be transmitted to the respondent's senior administrative officer (the senior administrative officers of the College include the President, the Dean of the Faculty, the Dean of the College, the Vice President of College Relations, the Vice President for Development, and the Vice President for Finance and Administration) who shall convene a Grievance Hearing Panel.
- e) If the respondent is a student, and the grievant requests a Grievance Hearing Panel, the complaint shall be transmitted to the College Regulations Panel, which shall provide fair and expeditious hearing to both grievant and respondent. The rules and procedures of the hearing shall be those normally in effect for the College Regulations Panel. Detailed rules and procedures of the College Regulations Panel are available from the Office of the Dean of Students upon request.

I. Grievance Hearing Panel

- 1. Hearing by the Grievance Hearing Panel
 - a) The Grievance Hearing Panel, appointed and chaired by the respondent's Senior Administrative Officer, will then conduct a hearing, including an examination of those witnesses and receipt of such documentary evidence as the Panel may deem appropriate.
 - b) Both parties will have the opportunity to review all other contents of the case file after the hearing. Contents of the file can only be seen in the office of the Senior Administrative Officer in the presence of an observer. Notes may be taken while reviewing the file.
- 2. Final Disposition by the Grievance Hearing Panel
 - a) The Grievance Hearing Panel shall deliberate in private session and shall by open vote decide on whether a violation of the College's nondiscrimination and nonharassment policy has occurred. A decision that a violation has occurred requires unanimity among the members eligible to vote. In the case of the finding of a violation, the Senior Administrative Officer, in consultation with the members of the panel, shall determine the appropriate remedy or sanction. A written summary prepared by the Chair of the Grievance Hearing Panel on the basis of this judgment shall be conveyed to both the grievant and the respondent within three working days after the deliberations have been completed.
 - b) If the respondent is a member of the faculty, staff, or administration and has been found to be in violation of the College's nondiscrimination and nonharassment policy, a written record of the grievance and the opinion by the Grievance Hearing Panel shall be retained in the files of the respondent's Senior Administrative Officer. If the respondent is a student, a written record shall be kept in the files of the College Regulations Panel. When the complaint has been resolved through informal mediation or judged not to be well founded through formal hearing procedures, a written record shall be retained only at the request of the respondent.

3. Appeal Process

- a) For students, the final disposition may be appealed by the grievant or the respondent through the College Regulations Appeals Committee. Detailed rules and procedures of the College Regulations Appeals Committee are available from the Office of the Dean of Students upon request.
- b) For faculty and staff, the final disposition may be appealed to the President by the grievant or the respondent within 30 days of the final ruling. The appeal process for faculty and staff is initiated by filing a written request for review with the faculty director of affirmative action or the equal opportunity/affirmative action officer, as appropriate. The written request must specify one or more of the following criteria: 1) evidence of alleged procedural (as specified in Appendix A) errors which impaired the ability of either party to adequately present herself or himself, or 2) the imposition of excessive penalty. Appeals may not be based on general dissatisfaction with the proposed disposition. The faculty director of affirmative action or the equal opportunity/affirmative action officer, as appropriate, will forward the appeal to the President. The President shall have the authority to affirm the finding or remand the finding to the Senior Administrative Officer for reconsideration. A copy of the President's written decision may be expected within 30 days of the filing of the appeal and shall be sent to all parties, and the Senior Administrative Officer whose authority will be needed to carry out the disposition. The deadline may be extended by the President for good cause. The decision of the President on the appeal is final.

Appendix A: Grievance Hearing Panel Rules and Procedures

1. Selecting the Panel

The respondent's Senior Administrative Officer (hereafter "the Officer") shall act expeditiously to convene a hearing panel, ordinarily within 10 days (excluding weekends and holidays) of receiving the complaint.

- a) The Officer shall provide both parties with copies of the grievant's initial statement describing the alleged harassment and any letters exchanged between the grievant and the Officer and the respondent and the Officer.
- b) The Officer will appoint three panelists who are members of the respondent's constituency, whom the Officer judges could serve as impartial panel members, and who have agreed to serve. If the respondent is a member of the faculty, the panelists shall be selected from the ranks of the tenured faculty. The Officer shall inform the grievant and the respondent of the appointed panelists. The grievant and respondent each may object to one or more of the panelists on a substantive basis within 24 hours from notification of the composition of the panel. The final decision on the composition of the panel rests with the Officer.
- c) The Officer shall then advise both parties of the time and location of the hearing, at least three days prior to the hearing (excluding weekends). The respondent may request additional time to prepare her or his case and this may be granted at the discretion of the Officer. The Officer shall stress to both parties that the proceedings are confidential.

- d) The Officer shall chair the hearing as a non-voting member.
- e) The grievant and respondent may both choose to bring witnesses, and must provide the Panel Chair with the names of such witnesses at least 24 hours in advance of the hearing. The Panel may also invite witnesses. No one is allowed to attend the hearing whose name has not been submitted to the Panel Chair 24 hours in advance, except in circumstances deemed exceptional by the Panel.

Witnesses may be either: (1) individuals who have direct knowledge of facts pertaining to the case, or (2) individuals who will attest to the good character of either the grievant or the respondent. The panel may only invite witnesses from category. The faculty director of affirmative action or the equal opportunity/affirmative action officer, as relevant, may not be a witness.

The Panel may accept written statements only from character witnesses, whose names are submitted 24 hours in advance, provided they have a reasonable excuse for not attending the hearing. Such written statements must be delivered to the Chair of the Panel. The statement(s) will be opened and read by the Chair at the hearing.

The number of witnesses to be heard is at the discretion of the Panel as a whole.

- f) The grievant and the respondent may each be accompanied by one individual from the Vassar community to provide moral support. The support person may not question the grievant, the respondent, witnesses, members of the Panel, or provide testimony to the Panel during the hearing.

2. The Chair of the Grievance Hearing Panel

- a) The Senior Administrative Officer shall chair the hearing. The Chair shall ensure that an audio record of the proceedings be kept. [The audio record of the hearing shall constitute an official record of the proceedings and shall be maintained, along with the entire case file, in the Senior Administrative Officer's office. Both the complainant and the respondent may take their notes with them from the panel hearing. In the case of a finding of guilt, the respondent may review the audio record of the hearing and take notes in order to formulate an appeal. Audio records can be heard only in the office where they are kept, in the presence of an observer.]
- b) At the Chair's discretion, recesses may be called.
- c) If a person becomes disruptive, the Chair may ask him or her to leave the room and wait in a designated area.

3. Opening the Hearing

- a) At the start of the hearing, the Chair shall confirm that the grievant is present, and that the respondent has been informed of her/his right to be present and has been urged to be present. The Chair shall remind all parties that the proceedings

are confidential. All witnesses shall wait outside, until the Panel calls for their respective appearances.

- b) The Chair will ask the grievant to make a statement addressing the allegations. The Chair will then ask the respondent whether, in the light of the statement of the grievant, the respondent considers himself/herself to have committed discrimination or harassment as defined by the College's policy and to make a statement addressing the allegations.
- c) At the conclusion of each statement, Panel members may ask questions.
- d) After both statements have been made, witnesses for the grievant will be called in one at a time, followed by witnesses for the respondent.

4. Witnesses

- a) Each witness will be reminded upon testifying that the proceedings are confidential, and instructed not to discuss what has transpired in the hearing with anyone.
- b) Witnesses shall appear individually. The grievant shall make the first case. Witnesses for the grievant will first be questioned by the grievant, then by the respondent.
- c) Similarly, the respondent's witnesses will first be questioned by the respondent and then by the grievant.
- d) Further questions of any witness may be asked by the grievant or the respondent and the grievant and respondent may question each other.
- e) Rebuttal witnesses and additional witnesses may then be introduced by either party.
- f) Panel members may ask questions of any party at any time.
- g) Once a witness has testified, the Chair will direct him or her to wait in a designated area outside the hearing room until receiving notification from the Chair that she or he can leave.

5. Closing the Hearing

- a) The grievant and then the respondent may make closing statements. The Chair will then direct them to wait in separate designated areas in case the Panel has further questions.
- b) After due deliberation, the Panel may choose to reconvene in order to call additional witnesses or review additional evidence. Both the grievant and the respondent, accompanied by their support persons, have the right to be present during the reconvened hearing.