

# Washington College Discrimination and Harassment Policies

## Policy Statement on Discrimination

Washington College does not discriminate on the basis of race, sex, color, national or ethnic origin, age, religion, marital status, disability, sexual orientation, genetic information, or any other legally protected classification in the administration of any of its educational programs and activities or with respect to admission and employment.

The designated coordinator to ensure compliance with Title IX of the Educational Act Amendments of 1972 is Candace Wannamaker, Associate Vice President of Student Affairs and Title IX Coordinator, Casey Academic Center, Washington College, 300 Washington Avenue, Chestertown, Maryland, 21620, phone number (410) 778-7752.

The designated coordinator to ensure compliance with Section 504 of the Rehabilitation Act of 1973 is, Andrea Vassar, Director of Academic Skills, Clifton Miller Library, Washington College, 300 Washington Avenue, Chestertown, Maryland, 21620, phone number (410) 778-7883.

For additional information and/or to file a complaint contact the Director of Civil Rights, US Department of Education, Office of Civil Rights, The Wanamaker Building, 100 Penn Square East, Suite 515, Philadelphia, PA 19107, or local fair employment practices agencies.

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## Policy Statement on Harassment

Harassment in any form, whether based on race, sex, color, national or ethnic origin, age, religion, marital status, disability, sexual orientation, genetic information, or any other legally protected classification is unacceptable on the Washington College campus.

For purposes of this policy harassment means unwelcome verbal, written, or physical conduct based on a protected classification (race, color, sex, disability, etc.) that has the purpose or effect of unreasonably interfering with an individual's work or education, (including living conditions, extracurricular activities, and social life) creating an intimidating, hostile, or offensive environment, or constituting a threat to an individual's personal safety. Sexual harassment includes sexual violence/assault.

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## Policy Statement on Sexual Harassment

Washington College will not tolerate sexual harassment in any form. Sexual harassment includes sexual violence/assault/misconduct. The goal of this policy is to create a community free of sexual harassment. Sexual harassment committed in connection with any College program, whether on or off campus, is prohibited. This applies to academic, educational, extracurricular, athletic, residential, and other College programs. Sexual harassment may be a violation of state and federal laws as well as a violation of this policy. Individuals who feel they have been sexually harassed may have the right to bring legal action, in addition to making a complaint to the College. Legal action and an internal complaint can be pursued at the same time. Retaliation against an individual who brings a complaint, participates in an investigation of sexual harassment, or pursues legal action is prohibited.

The essential importance of academic freedom is recognized and a standard of reasonableness will guide the College. Only when academic freedom is used to disguise, or as the vehicle for, prohibited conduct will it be questioned.

Washington College believes that ideas, creativity, and free expression thrive and, indeed, can only exist for students, faculty, and staff in an atmosphere free of sexual harassment and assault.

### **Definition of Sexual Harassment**

Federal Law (Title VII of the Civil Rights Law of 1964 and Title IX of the Education Amendments of 1972) provides that sexual harassment shall be considered a form of gender discrimination. Maryland Law also prohibits gender discrimination and sexual harassment.

Sexual harassment is defined as any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature which has the purpose or effect of interfering with one's academic or work performance or social world by creating an intimidating, hostile, offensive, or violent environment. Sexual violence/assault is also considered sexual harassment.

#### ***Examples of Sexual Harassment:***

- Action of an individual in a position of institutional power or authority who misuses that position to subject an individual to unwanted sexual attention of either a verbal or physical nature when that conduct is either explicitly or implicitly a term or condition of a person's employment or academic status.
- Demanding sexual favors accompanied by implied or overt threats or promises concerning grades, recommendations, or evaluations.
- Inappropriate sexual conduct that interferes with an individual's work performance or educational experience by creating an uncomfortable environment. This prohibition applies to all relationships at the institution between members of the College community.
- Inappropriate conduct against an individual that interferes with an individual's work performance or educational experience by creating an uncomfortable environment that would not occur but for the sex of the individual.

### **Consensual Relationships**

Washington College policies prohibit unreciprocated and unwelcome relationships. However, persons in positions of power, authority, and control over others should be aware of and sensitive to problems that may arise from mutual relationships that are inherently unequal. Individuals in these situations are urged to examine such relationships before engaging in them, especially in terms of emotional health, self-esteem, and respect for the freedom of others.

Apparently consensual sexual relationships, particularly those between individuals of unequal status, may be or become a violation of this policy. Anyone who engages in a sexual relationship with a person over whom he or she has any degree of power or authority must understand that the validity of the consent involved can and may be questioned. The College particularly abhors the abuse potentially inherent in sexual relationships between faculty members and students and between staff supervisors and their student employees.

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## **Reporting Discrimination or Harassment**

### **Discrimination or Harassment Based on Disability**

The Americans with Disabilities Act (ADA) of 1990, amended in 2008, prohibits discrimination based on disability. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability in programs or activities receiving federal financial assistance.

#### ***Examples of Harassment based on Disability:***

- Lack of access to educational programs and facilities
- Denial of academic adjustments or accommodations

- Offensive remarks, jokes, epithets, slurs, negative stereotyping or threatening, intimidating or hostile acts that relate to a person's disability

## **Discrimination or Harassment Complaints**

Washington College encourages anyone who has experienced any form of discrimination or harassment to report the incident promptly, to seek all available assistance, and to pursue remedies available through campus judicial or grievance processes. Reporting Parties are also encouraged to report incidents to local, state and/or federal authorities or offices charged with handling unlawful discrimination or harassment.

### **Reporting a Complaint**

Students, employees, or third parties who believe they have been subjected to discrimination or harassment, including sexual violence/assault, by a student or employee of the Washington College community or by another individual for whom the College is or may be responsible (e.g., applicants for admission or employment, alumni, independent contractors, vendors, recruiters) should contact one of the following persons for assistance with resolving a complaint:

- Title IX Coordinator or Assistant Coordinator(s) – for matters involving discrimination or harassment based on sex or gender
- 504 Coordinator or Assistant Coordinator(s) – for matters involving discrimination or harassment based on disability
- Professional Staff in Student Affairs (Including Resident Area Directors/RADs)
- Department of Public Safety
- Human Resources Department

Complaints alleging sexual discrimination or harassment (including sexual assault/violence) should be submitted to Candace Wannamaker, Associate Vice President for Student Affairs and the College's Title IX Coordinator, first floor Casey Academic Center, 410-778-7752.

Complaints alleging disability discrimination or harassment should be submitted to Andrea Vassar, Director of Academic Skills and the College's Section ADA/Section 504 Coordinator, Clifton Miller Library, 410-778-7883.

When a Washington College student is the subject of a discrimination or harassment complaint, the matter will be referred to the Honor Board or other appropriate hearing body (see the Washington College Honor Code and Student Judicial System found earlier in this Handbook).

When a Washington College employee or third party is the subject of a formal written complaint, the matter will be reviewed by the Washington College Discrimination Dispute Resolution Committee (DDRC).

Students, employees, or third parties alleging discrimination or harassment may submit a complaint in writing using the Discrimination/Harassment complaint form. Complaint forms are available in Public Safety, Student Affairs, Human Resources and Title IX Coordinator's Office or for download and printing from the College website at <http://www.washcoll.edu/title-ix/>.

### **Interim Measures**

The Title IX Coordinator or 504 ADA Coordinator will determine, with campus administrators, the appropriate interim measures to be taken during the investigation. Interim remedial actions can include, but are not limited to the following:

- No Contact Orders
- Interim Suspension
- Administrative Leave (Employee)
- Reassignment of Housing
- Reassignment of Job
- Class Schedule Change

- Prohibit or restrict participation in extracurricular activities
- Prohibit or restrict access to campus for third parties
- Relocation of a residential assignment

### **Investigating a Complaint**

All complaints of harassment or discrimination will be investigated in a manner that is adequate, reliable, and impartial. Investigations may be conducted by trained Public Safety staff, trained Title IX Investigators, the Title IX Coordinator or Assistant Coordinators (for Title IX matters), the Section 504 Coordinator or Assistant Coordinators (for ADA/Section 504 related matters), Human Resources staff, or another trained investigator appropriate to the situation and in accordance with all College policies and legal requirements.

For matters involving discrimination or harassment based on sex or gender (covered by Title IX), the Title IX Coordinator will ensure that the investigation complies with all Title IX requirements. For matters involving discrimination or harassment based on disability (covered by ADA/Section 504), the Section 504 Coordinator will ensure the investigation complies with all Section 504 requirements.

The responsibility to conduct an investigation shall not be altered by the fact that a criminal investigation of the incident is pending or has been concluded, although the investigation may be delayed or suspended at the request of law enforcement while the law enforcement agency is gathering evidence. In the event the investigation is delayed at request of law enforcement agency, appropriate steps will be taken to provide for the safety of the Reporting Party and the College community and to prevent retaliation by any individual. The steps may include changes to the schedule, housing assignment or work location of the Responding Party or summary suspension/leave from the College issued to the Responding Party. The College will promptly resume its Title IX investigation as soon the College receives notification that law enforcement has completed the evidence-gathering process.

### **Investigation Process:**

The Reporting Party will be contacted by a College administrator designated by the Title IX Coordinator or ADA/Section 504 Coordinator to schedule a meeting.

During the meeting, the College administrator will:

- Provide Reporting Party with an explanation of the campus conduct process.
- Give the Reporting Party the opportunity to submit a written statement and evidence.
- Give the Reporting Party the opportunity to list any witnesses who may have information pertaining to the complaint.
- Inform the Reporting Party to have no contact with the Responding Party during the course of the investigation.
- Inform the Reporting Party that there will be follow-up meetings to discuss the case and status.

The Responding Party will be contacted by a College administrator designated by the Title IX Coordinator or Section 504/ADA Coordinator to schedule a meeting.

During the meetings, the College administrator will:

- Provide Responding Party with an explanation of the campus conduct process.
- Present the allegations and provided the Responding Party the opportunity to respond.
- Give the Responding Party the opportunity to submit a written statement and evidence to contest the allegations.
- Give the Responding Party the opportunity to list any witnesses who may have information pertaining to the complaint.
- Inform the Responding Party to have no contact with the Reporting Party during the course of the investigation.
- Inform the Responding Party that there will be follow-up meetings to discuss the case and status.

Any person identified by the Reporting Party or Responding Party who has information that pertains to the allegation will be contact by the investigator(s).

The person designated to conduct the investigation shall prepare a written report within fifteen (15) business days after completing the investigation, unless additional time to complete the investigation is required. In that case, the investigator shall report on the status of the investigation to the Reporting Party, the Responding Party, and the Title IX or Section 504 Coordinator (or designee) as applicable at the expiration of the fifteen (15) day period and every fifteen (15) business days thereafter.

At the conclusion of the investigation, a designated College administrator will meet with the Reporting Party and discuss the written report and inform him/her of the next steps in the process.

The designated college administrator will contact the Responding Party and review the written report and explain the next steps in the process.

The Reporting Party and Responding Party may have a support person present during the investigation process. A support person is defined as a member of the College community (faculty, staff, or student). The support person is not permitted to participate in the meetings, but is there in support of the individual.

The written report is a summary of the investigation and will be forwarded to the appropriate administrator. The administrator will then forward the report to the Honor Board or the Discrimination Complaint Review Committee (DDRC) for review and any action deemed appropriate in accordance with the procedures of each.

Nothing in these procedures or in the procedures of the Honor Board or DDRC limits the right of any person to pursue other avenues of recourse which may include filing charges or a complaint with local, state and federal authorities responsible for addressing unlawful discrimination and harassment.

More information about the procedures of the Honor Board can be found in the chapter “Washington College Honor Code and Student Judicial System” found earlier in this Handbook.

### **Resolving Complaints**

The Title IX Coordinator or Section 504 Coordinator or other appropriate College administrator will ensure that steps are taken to address and resolve any instance where an investigation and subsequent review (by either the Honor Board or the DDRC) concluded discrimination or harassment occurred. Resolution outcomes include actions to remediate the instance of discrimination or harassment and, where needed, actions to prevent future recurrence and to correct discriminatory effects on the Reporting Party and others.

Remedial actions include, but are not limited to:

- College Warning (Except in cases of Sexual Assault/Violence)
- Suspension/Expulsion
- Probation
- Termination of Employment
- Protection from Retaliation
- Counseling for the Reporting Party
- Other steps to address the impact of harassment or discrimination on the Reporting Party, any witnesses and the College community

### **Discrimination and Dispute Resolution Committee (DDRC)**

The Washington College Discrimination Dispute Resolution Committee (DDRC) is used when the subject of a formal written complaint is an employee or third party. The DDRC will consist of faculty and staff, trained to review matters involving discrimination and harassment. A hearing panel will consist of three members of the DDRC and is facilitated by the Director of Human Resources (or designee) for complaints against staff members or Provost (or designee) for complaints against faculty. Hearings where there is a staff Responding Party will include two staff members and one faculty member on the hearing panel. Within 15 days after the hearing, the panel will issue a written decision that includes a review of the information

relevant to the case and sanctions assigned if it is found to be “more likely than not” that the subject of the Complaint violated College policy. The DDRC will continue to function whenever the College is open even if classes are not in session.

### **Records**

Records of complaint investigation and any corrective action will be entrusted to the Title IX Coordinator or ADA/Section 504 Coordinator and will be maintained in an electronic system accessible throughout the College on a confidential basis consistent with College’s legal requirements and appropriate legal requests for said documents.

### **Making an Appeal**

The Reporting Party or Responding Party may appeal decisions of the DDRC or Honor Board by submitting a written appeal request within five business days of receiving written notification of the outcome of the hearing. Appeal forms can be downloaded from the following website <http://www.washcoll.edu/title-ix/>. Only appeals that are based on one or more of the following grounds will be considered for review:

- Procedural error(s) that prevented fundamental fairness;
- New information or evidence that was not available at the hearing;
- An imposed sanction that is disproportionate to the violation and/or the conduct history of the Responding Party;

Letters of appeal for Honor Board decisions must be sent to the Vice President of Student Affairs (or designee). The Vice President for Student Affairs or designee will determine whether or not the appeal meets the above criteria. If any of the criteria are met, the case will be referred to the appeal board; if the case does not meet at least one of the criteria, there will be no further review. More information on the student appeal process can be found in the Student Handbook. Letters of appeal for DDRC decisions must be sent to the President of the College (or designee). The President of the College (or designee) will determine whether or not the appeal meets the above criteria. If any of the criteria are met, the case will be reviewed and a decision made; if the case does not meet at least one of the criteria, there will be no further review. The appellant(s) and the other party, shall be notified of the outcome of the appeal. All appeals will be conducted in an impartial manner and by an impartial decision-maker.

### **Retaliation**

All members of the Washington College community are advised that retaliation against anyone for filing a complaint of discrimination or harassment or for participating in an investigation of discrimination or harassment is strictly prohibited by law and by College policy.

### **Confidentiality**

All parties involved, especially those charged with carrying out the above policies, are enjoined to work in confidence to the extent legally permissible and practically possible.

In cases of discrimination and harassment, Reporting Parties may also obtain information and/or file a complaint by writing the Director of Civil Rights, US Department of Education, Office of Civil Rights, The Wanamaker Building, 100 Penn Square East, Suite 515, Philadelphia, PA 19107. Such complaints generally must be filed within 180 days.

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## Policy on Sexual Assault

When sexual misconduct or sexual violence in any form occurs, the standards of the community, and possibly criminal laws, are violated. When reported, the College will deal with these issues in accordance with its policies and procedures and as required by applicable laws. Sexual misconduct committed in connection with any College program, whether on or off campus, is prohibited. This includes all College programs including, but not limited to, academic, educational, extra-curricular, athletic, and residential programs.

Washington College urges individuals who believe they have been sexually assaulted to pursue criminal charges against the person or persons they believe to have committed the sexual assault. A criminal charge and an internal complaint can be pursued at the same time. Retaliation against an individual who brings a complaint, participates in an investigation, or pursues legal action is prohibited and possible violations will be investigated and violations addressed in accordance with College policy and procedures.

In cases of sexual assault or other sexual misconduct, College authorities will inform a Reporting Party of the option of criminal prosecution and medical assistance, as well as the Reporting Party's rights under the Crime Reporting Party's Bill of Rights. This includes the right to assistance from the Maryland State Crime Reporting Party's Reparation Board and the Maryland State Office of the Crime Reporting Party Ombudsman. A Reporting Party will also be informed of the right to file a complaint of sexual harassment (which includes sexual assault/violence). Students or employees wishing to file a complaint should follow the procedures outlined in the "Reporting Discrimination and Harassment" section found earlier.

When a Washington College student is the subject of a sexual assault/violence complaint, the individual filing the complaint will be informed about the role of the Honor Board's Sexual Misconduct Hearing Board in evaluating whether the student who is the subject of the complaint is responsible for violations of College policy (including policies addressing discrimination and harassment). When a Washington College employee or third party is the subject of a sexual assault/violence complaint, the individual filing the complaint will be informed about the role of the D or appropriate administrator in evaluating whether the individual who is the subject of the complaint is responsible for violations of College policy (including policies addressing discrimination and harassment).

College authorities, normally the Director of Public Safety, will notify the Chestertown Police of the sexual assault **only** at the request of the student or employee filing the complaint and will provide assistance in notifying any other law enforcement authorities or in preserving materials that may be relevant to the internal complaint process. At the direction of the Chestertown Police, College authorities will provide assistance in obtaining, securing, and maintaining evidence for criminal prosecution.

## Consent

### Definition of Consent

Consent is the equivalent of approval, given freely, willingly, and knowingly, of each participant to each sexual involvement. Consent is an affirmative, conscious decision – indicated clearly by words or actions – to engage in mutually accepted sexual contact. A person engaging in sexual contact by force, threat of force, or coercion has not consented to contact.

- Lack of mutual consent is the crucial factor in any sexual misconduct case.
- Consent to some form of sexual activity does not necessarily constitute consent to another form of sexual activity even within the same initial consensual activity.
- Consent to past sexual activity does not imply consent to future sexual activity.
- Consent can be withdrawn at any time.

- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- Silence without demonstrating permission does not constitute consent.
- Consent CANNOT be given if a person's ability to resist or consent is incapacitated because of a mental illness or physical condition (by alcohol or other drugs, unconsciousness, sleep, or blackout) or if there is a significant age or perceived power differential.

**Sexual activity with someone who the Responding Party should know to be, or based on the circumstances should reasonably have known to be, mentally or physically incapacitated (by alcohol or other drugs, unconsciousness, sleep, or blackout) is sexual activity without consent.**

### **Interim Measures**

By decision of the President of the College, the Vice President of Student Affairs, or a designee of either, an individual who is the subject of a sexual assault complaint may, without prejudice, be removed from the campus or subjected to other forms of restriction with regard to the Reporting Party, pending formal judicial action or criminal procedures, to avoid additional conflict within the community and/or to protect the safety of members of the College community.

### **Resources for Victims of Sexual Assault**

There are many services established to assist individuals who have been sexually assaulted. Rachel Boyle, Director of Prevention Education and Advocacy, ext. 7277, campus sexual assault response advocates (SARA) or other student affairs staff members (see list below under Education and Training) may be contacted to provide assistance or for any questions.

**Washington College Health Services**, ext. 7261

**Washington College Counseling Services**, ext. 7261

**"For All Seasons, Inc." Sexual Assault Crisis Center**, 1-800-310-7273 (A 24-hour confidential service that provides counseling, advocacy and support to survivors.)

**Office of Public Safety**, ext. 7810

A member of the Campus Department of Public Safety is available 24 hours a day and 7 days a week to transport the Reporting Party to either hospital listed below if requested. Volunteers from the For All Seasons Sexual Assault Crisis Center are also available to provide counseling and assistance throughout this process.

Two area hospitals have sexual assault response programs in place. Forensic Nurse Examiners are available 24 hours a day, 7 days a week to provide confidential medical examination, STI and pregnancy prophylactics. The programs work in conjunction with For All Seasons, Inc., to provide advocacy support to victims.

- University of Maryland Shore Medical Center at Chestertown, 410-778-3300  
located adjacent to Washington College
- University of Maryland Shore Medical Center at Easton 410-822-1000

The Director of Prevention Education and Advocacy, serving as the sexual assault response coordinator, will inform the Reporting Party, at a minimum, of internal complaint options, availability of confidential counseling, mechanisms available to address concerns about physical safety, as well as the possibility of alternative housing assignments or classroom arrangements (where appropriate).

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## **Education and Training**

The Office of Prevention Education and Advocacy is responsible for developing and coordinating educational and training programs for students about sexual assault and sexual violence. To address issues of sexual assault and sexual violence proactively, the College will distribute these policies to and provide training for students and employees. In addition, these policies will be communicated at appropriate opportunities in classes, meetings, programs, and publications.

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## **Sexual Assault Amnesty Protocol**

Washington College encourages the reporting of sexual misconduct. The College recognizes that individuals who have been drinking and/or using drugs (whether use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, sexual misconduct or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. An individual reporting sexual violence to College officials or a bystander reporting such violations, provided that their behavior did not place the health and safety of any person at risk, will not be subject to disciplinary action for violations of alcohol and other drug policies occurring at the time of the sexual misconduct.

## **Sexual Assault Campus Climate Survey**

In compliance with Maryland House Bill 571, Washington College conducted a sexual assault campus climate survey in March of 2016 and will do so every two years.

### **People to contact for more information:**

- Sarah Feyerherm, Vice President of Student Affairs, ext. 7752
- Candace Wannamaker, Associate Vice President for Student Affairs/Title IX Coordinator, ext. 7752
- Ursula Herz, Associate Dean of Students and Director of Residence Life, ext. 7752
- Rachel Boyle, Director of Prevention Education and Advocacy and Sexual Assault Response Coordinator, ext. 7277
- Lisa Marx, Director of Health Services, ext. 7261
- Miranda Altman, Director of Counseling Services, ext. 7289
- Jerry Roderick, Director of Public Safety, ext. 7810
- Sexual Assault Response Advocate (SARA) 410-699-0742