



Policy #: 4.020  
Responsible VP: Finance  
and Treasurer  
Responsible Office:  
Human Resources  
Approved By :Leadership  
Team  
Status: APPROVED  
Approved: 02/07/2017  
Effective Date:  
03/20/2017  
Last Updated:  
MM/DD/YYYY  
Last Revised:  
MM/DD/YYYY

## **NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

### **1. Policy Summary**

---

As an educational institution, Molloy College (the “College”) is committed to maintaining an environment in which its faculty, students, administrators and staff members are safe, can be trusted and count on others to be trustworthy and receive and extend to others respect as human beings. Indeed, mutual respect among faculty members, students, staff persons and administrators is an essential ingredient in the educational process and the greatest care must be taken that it not in any way be eroded.

This policy sets forth the College’s procedures for addressing discrimination and harassment complaints based on a protected characteristic as defined herein involving faculty, students, administrators, staff, and vendors. Some conduct, which may not constitute such harassment, may still violate the standards of conduct set forth in the provisions of the College’s Student Handbook, Employee Handbook, Faculty Handbook, or other College policies. To the extent the conduct in question does not constitute harassment as defined in this policy, the provisions of such other Handbooks, rules or policies are applicable. To the extent that the terms of a collective bargaining agreement contain procedures which differ from this policy, the collective bargaining agreement shall control.

### **2. Policy Scope**

---

This policy applies to all applicants, students, and employees, and prohibits harassment whether engaged in by a fellow student or employee, a supervisor or manager, or persons conducting business with or visiting the College, or any behavior that takes place at a College sponsored event. This policy is inclusive of all members of the College community. In this policy, the term “Molloy community” is used to refer to faculty, staff, administrators, students and others affiliated with the College by reason of employment or education.

#### **2.1 On-Campus and Off-Campus Behavior**

This policy applies to conduct that occurs on any part of the College’s campuses, satellite sites or property. It also applies to online speech, such as social networking sites, and when College community members travel off-campus as part of a College sponsored activity, team, organization or event, such as Molloy’s Global Learning program. Additionally, the College has the discretion to extend the reach of this policy to conduct prohibited under this policy that occurs off-campus, and/or during a time when the College is not in session, if in the College’s view such conduct:

- Seriously affects the interests of the College or any member of the College community; or
- Occurs in close proximity to the College’s campus and is connected with prohibited conduct on the College’s campus.

### **3. Policy**

---

The College prohibits harassment and discrimination on the basis of race, creed, color, religion, national origin, sex or gender identity, age, disability, sexual orientation, marital status, ethnicity, genetic predisposition or carrier status, pregnancy, veteran or military status, citizenship status or any other characteristic protected by law (collectively referred to hereafter as “harassment”). Harassment will not be sanctioned or tolerated by the College. As is described in more detail below, allegations of harassment should be brought to the attention of the Assistant Vice President for Human Resources.

This policy is designed to provide a fair and reliable procedure to determine whether the policy has been violated. If a violation is found, the College will implement prompt and effective remedies designed to end the harassment, prevent its recurrence and address its effects. In cases of College employees, violations of this harassment policy will be considered misconduct on the part of the employee and will be subject to institutional sanctions, including possible termination of employment. The imposition of sanctions maybe governed by the procedures and provisions specified in the Student Handbook, the Faculty Handbook, the Employee Handbook, or a collective bargaining agreement, to the extent applicable.

Additionally, this policy explains the College’s approach to investigating, adjudicating and imposing discipline for acts of harassment. An act of harassment may also be considered a crime. The College strongly encourages the reporting of severe incidents to the local police. Public Safety can assist a complainant in reporting an incident to the police if requested to do so. The criminal process is separate and distinct from this policy. The fact that a criminal complaint has been filed, prosecuted or dismissed will not prevent the College from investigating complaints or pursuing disciplinary action.

#### **3.1 Timeframe for Making a Complaint**

While there is no time limit for bringing forward a complaint under this policy, the passage of time may make an incident difficult or even impossible to investigate fairly or fully and to adjudicate. Therefore, complainants are encouraged to make a complaint as soon as possible after the incident has occurred.

#### **3.2 Informal Resolution**

An individual who feels that he or she has been the victim of harassment may choose to seek an informal resolution of the problem. However, certain allegations of harassment are not appropriately handled through informal mechanisms and the College at all times retains the right to investigate any complaint in a formal manner or take whatever other action it deems appropriate, with or without the complainant’s consent. More so, at any time during or following the conclusion of the informal resolution process, the complainant has the right to discontinue or bypass informal resolution and initiate a formal complaint. Similarly, at any time during or following the conclusion of the informal resolution process, the College has the right to investigate and handle the complaint in a formal manner, with or without the complainant’s consent.

### **3.3 Campus Advocates**

Campus Advocates exist on the campus to assist anyone who believes they may have been a victim of harassment and wishes to seek an informal resolution. Complainants may contact any of the Campus Advocates listed on the College's website or go directly to the Assistant Vice President of Human Resources to initiate the informal complaint process.

"Campus Advocates" are College faculty and employees who have been selected based upon their skill in resolving issues, knowledge of harassment, training, and willingness to dedicate the time and resources necessary for completion of their responsibilities as assigned. Advocates are instructed on how to respond to allegations of harassment and are kept up-to-date on the College's current policies. They stand prepared to provide information on the avenues of recourse available to resolve the complaint. The individuals serving as Campus Advocates may change at any time.

Campus Advocates can assume the following roles:

- meet with individuals who allege that they have been victims of harassment;
- clarify the definitions of harassment and discuss how these definitions may or may not pertain in the circumstances described by the complainant;
- discuss with the complainant whether counseling should be considered based upon the circumstances;
- where appropriate, assist the complainant in filing a written complaint regarding the harassment; facilitate the filing of a complaint with the Assistant Vice President for Human Resources;
- participate in on-going education for the campus community regarding matters of harassment to include the creation and dissemination of appropriate educational materials about harassment, and to conduct or host seminars or training sessions for all members of the campus community.

For a list of current Campus Advocates (including names, titles, office location, office hours, telephone number, e-mail address), please see the Office of Human Resources or consult the Human Resources page of the College website.

### **3.4 Advisors**

Each party has the right to choose and consult with an advisor. The advisor may be any person who is not otherwise a party or witness involved in the investigation. The choice of whether or not to invite an advisor is solely that of the complainant and respondent. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation of a complaint under this policy. Advisors cannot actively participate or speak on behalf of the complainant or respondent. If any advisor's conduct is not consistent with these guidelines, he or she may be excluded from the process.

### **3.5 Formal Reporting Procedures**

Complainants have the right to, and can expect to have, incidents of harassment taken seriously and to have those incidents investigated and properly resolved through administrative procedures. Witnesses are expected to cooperate fully with an investigation and share their knowledge of any incident in a truthful and honest manner. Formal reporting means that only people who need to know will be told and information will be shared only as necessary with investigators, witnesses, and the respondent.

### **3.6 Confidentiality**

The College understands that an individual claiming harassment may wish to talk about the incident with the assurance that the discussion will be confidential. There are several support resources that complainants may utilize on a confidential basis. These include Personal Counseling Services, the Campus Ministries Office, and College Health Services. Because these services are confidential, a discussion with any of these sources does not result in a complaint being filed with the College or result in action being taken by the College to respond to the incident. A complainant who wants emotional support only should contact the foregoing confidential counseling resources. Anyone wishing to have an incident investigated and adjudicated must make a formal complaint in accordance with the procedures described herein.

The College endeavors to respect and follow the wishes of an individual who brings forward a harassment concern. Nonetheless it should be understood that the College may have ethical and legal obligations to investigate, attempt to resolve or adjudicate incidents of harassment that come to its attention. Therefore, depending on the circumstances, it may not be possible for a conversation with Public Safety personnel, the Assistant Vice President of Human Resources or other employees to be kept in confidence always or, said another way, for these individuals simply to listen without taking action.

The College will strive to maintain confidentiality to the full extent appropriate, consistent with applicable law and the need to resolve matters effectively and fairly and protect the College community. All persons involved in the proceedings will be advised of the need for discretion and confidentiality. Inappropriate breaches of confidentiality may result in disciplinary action.

### **3.7 Retaliation**

Victims have the right to report harassment in good faith without fear of retaliation. Retaliation includes threats, intimidation, or reprisals. Retaliation occurs when an adverse action is taken against an individual because the individual has engaged in an activity protected by law or this policy. For example, it would be retaliatory to intimidate a witness or to shun a person from a student organization in retribution for the person's having made a complaint of harassment.

The College strictly prohibits retaliation by anyone against a person who makes a report of harassment or assists someone with a report, or participates in any aspect of the investigation or resolution of a report. Acts of retaliation are subject to the disciplinary procedures specified in the Student Handbook, Employee Handbook and the Faculty Handbook, as may be applicable.

## **4. Definitions**

---

### **4.1 Harassment**

Under this policy, **harassment** is defined as verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, creed, color, religion, national origin, sex or gender identity, age, disability, sexual orientation, marital status, ethnicity, genetic predisposition or carrier status, pregnancy, veteran or military status, citizenship status or any other characteristic protected by law, that has the purpose or effect of creating an intimidating, hostile, or offensive work/academic environment and/or has the purpose or effect of unreasonably interfering with an individual's work/academic performance, or otherwise adversely affects an individual's employment/academic work.

Harassing conduct includes, but is not limited to: epithets, slurs, negative stereotyping, threatening, intimidating or hostile acts, and the circulation of written or graphic material either in person or through social media or other electronic medium that denigrates or shows hostility or aversion toward an individual or group based on a protected characteristic.

#### Examples of Harassment

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person (these can constitute criminal acts as well as harassment);
- Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of a protected characteristic;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Derogatory visual, verbal, non-verbal or physical conduct that demonstrates bias based on an individual's actual or perceived protected status;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy).

**4.2 Retaliation** is any adverse employment or educational action taken against a person because of the person's participation in a complaint or investigation of discrimination, harassment, or sexual misconduct.

**4.3 Sexual Harassment** is a particular type of harassment and constitutes discrimination on the basis of sex. Allegations of sexual harassment or sexual violence are addressed separately in the College's Sexual Misconduct Policy. Please refer to that policy for additional information.

## 5. Contact Information

---

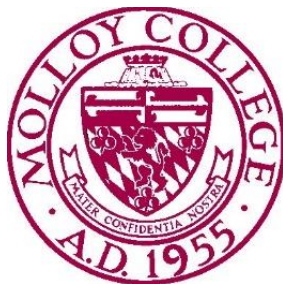
The College has designated the following individuals to receive complaints of harassment:

- The Assistant Vice President of Human Resources, Lisa Miller (516) 323-3046
- Public Safety – (516) 323-3500

## 6. Related Policies and/or Documents

---

This policy delineates the process outlined to ensure a prompt, thorough and impartial investigation of any complaint, except complaints of sexual harassment and sexual misconduct, which are handled under the College's Sexual Misconduct Policy, which can be found at <http://www.molloy.edu/about-molloy-college/human-resources/non-discrimination-and-harassment-policies/sexual-misconduct-policy>.



## **Addendum – Complaint Procedures**

### **The Informal Resolution Process**

When informal action is deemed appropriate by the complainant and the Assistant Vice President for Human Resources, written notes will still be taken in connection with the complaint. The Assistant Vice President for Human Resources or her designee will listen to the concerns of the complainant and offer advice on different ways to handle the situation such as: a letter to a respondent, clarification of College policy, or an informational meeting to mediate the concerns.

### **The Formal Complaint Process**

An individual who feels that he or she has been the victim of harassment may submit a formal complaint to the Assistant Vice President for Human Resources, Lisa Miller, (516) 323-3046, or Public Safety by dialing 11, or through the College's online complaint form at [www.molloy.edu/fileacomplaint](http://www.molloy.edu/fileacomplaint).

#### **1. Investigation**

The Assistant Vice President of Human Resources or her designee (who may be an Assistant Director of Human Resources, or an internal or external investigator, as appropriate) will promptly investigate and resolve complaints under this policy. The investigator(s) will handle complaints impartially and objectively and perform fact-finding. If there is a conflict of interest such that the investigator(s) cannot be impartial, another investigator(s) will be appointed by the College to conduct the investigation. A party wishing to challenge the participation of the investigator(s) must notify the Assistant Vice President for Human Resources, in writing, within twenty-four (24) hours of receiving the written notice of investigation. The party must state the specific reason(s) for the party's objection. The College will determine whether the challenge has merit and, if so, will assign a new investigator(s).

During the investigation, the complainant and the respondent will have an equal opportunity to be heard, to submit information and corroborating evidence, and to identify witnesses who may have relevant information. The investigator(s) will collect and review evidence they deem necessary or helpful to the investigation of the alleged harassment or discrimination. The investigation may include speaking with the complainant, the respondent, and potential witnesses, as well as gathering all relevant evidence available. The investigation may also include the examination of medical records, surveillance video, and cell phone and other electronic and non-electronic records, and other evidence.

In the event the respondent is determined to present a continuing threat to the health and safety of the community, the respondent may be subject to an interim suspension pending the final outcome of the process. A complainant may also request assistance in changing academic, living, transportation, and working situations, as applicable. These interim measures may also include issuance of a No Contact Order, changes in academic, extracurricular, housing, dining, employment, or transportation arrangements, or other applicable arrangements.

Upon conclusion of the investigation, the Assistant Vice President for Human Resources or her designee will prepare findings of fact and recommendations for corrective action, which will be transmitted to the Dean of Students and/or the appropriate Vice President expeditiously and without undue delay.

## **2. Determination**

A determination as to whether harassment occurred depends upon the totality of the circumstances, such as the severity of a particular incident, issues of academic freedom, the context in which it occurred, whether the conduct was repeated, whether the conduct was verbal or physical, and whether it was threatening or merely annoying. For purposes of federal and state law, harassment has occurred if a reasonable person would have found the behavior offensive and his or her living, learning or working environment would be impaired as a result of the conduct.

The Dean of Students and/or the appropriate area Vice President will evaluate the case under a “preponderance of the evidence” standard. The respondent will be found responsible for the alleged misconduct if the Dean of Students and/or the appropriate area Vice President concludes based upon careful review of all information presented, that such misconduct more than likely occurred. If appropriate, the Dean of Students and/or the appropriate area Vice President may also remand the case to the investigator for additional fact finding and/or request clarification or more information from the investigator(s).

## **3. Sanctions**

In assessing a disciplinary penalty, the seriousness of the harassment incident will be evaluated. Although relatively minor incidents usually result in lesser forms of disciplinary action, the College reserves the right to impose discipline upon any faculty member, staff person or administrator who has been found to have violated this policy, including reprimand, suspension for a stated period with or without pay, termination of employment or such other responsive actions deemed appropriate for any act of discrimination or harassment, based on the facts and circumstances of the particular case.

Any student who has been found to be in violation of this policy will be subject to disciplinary action as determined by the Dean of Students, which may range from a warning to expulsion, depending upon the severity of the violation.

Any employee who has been found to be in violation of this policy will be subject to disciplinary action. The appropriate Vice President in relation to that person’s position within Molloy imposes sanctions on an employee found in violation of this Policy. The Vice President may consult with senior members of the College (e.g. Faculty President) before issuing the sanction if the case involves a faculty member.

## **4. Appeal**

All appeals will be conducted in a fair, impartial, and equitable manner. The disciplinary decision may be appealed by a written notice within ten (10) business days of receiving the written decision for a review of the judgment or the sanctions imposed.

The ONLY grounds for appeal are as follows:

1. A procedural or substantive error occurred that significantly impacted the outcome of the investigation (e.g. substantiated bias, material deviation from established procedures, etc.).
2. To consider new evidence, unavailable during the original investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
3. The sanctions imposed are substantially disproportionate to the severity of the violation.

Any party who files an appeal must do so in writing to the appropriate Vice President in relation to that person's position within the College, who will share the appeal with the non-appealing party. The non-appealing party is given an opportunity to review the appealing party's submissions and submit a written response.

All appeals and responses are then reviewed by a panel composed of three Vice Presidents (the "Appeal Panel") to determine if the appeal meets the grounds for appeal and is timely. The Appeal Panel shall not include any Vice President who was involved at the investigation or sanctioning phase described herein. The Appeal Panel will review the written appeal and evidence and will then determine if the original sanction either stands or if it is reduced or removed altogether. Except for appeals brought under (2) above, the Appeal Panel's entire review process will be based on the party's appeal, the non-appealing party's response to the appeal, if any, and the Appeal Panel's record of the case. Otherwise, no additional evidence is allowed and no witnesses may be heard. The Appeal Panel will make a final determination on the appeal and issue a final determination letter to the respondent and the complainant. The decision of the Appeal Panel is final.