



WEBB INSTITUTE

ANTI-DISCRIMINATION, HARASSMENT, SEXUAL MISCONDUCT, AND RETALIATION POLICY AND INCIDENT PROTOCOL

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STATEMENT OF POLICY

Webb Institute is proud of its Honor Code, traditions, workplace, and academic environment and will endeavor to maintain a pleasant and collegial environment for employees, students, guests and visitors, all of whom are expected to treat each other with courtesy, consideration, and professionalism. Webb Institute prohibits and will not tolerate discrimination, harassment, sexual misconduct, or retaliation based on the protected status of an individual's race, creed, color, national origin, sex, gender identity, age, marital status, disability, ethnicity, sexual orientation, genetic predisposition or carrier status, religion, pregnancy, veteran status, or any other basis protected by applicable local, state, or federal laws. Webb will make the policy available in various and appropriate places on campus and on the Institute's website.

Discrimination, harassment, sexual misconduct, and retaliation are violations of the policy and of the appropriate standard of conduct required of all persons associated with Webb Institute. Webb Institute is committed to preventing, investigating, and remedying violations of this policy. Those members of the community inflicting such behavior on others are subject to the full range of institutional disciplinary actions, up to and including separation from the college, and/or referral to authorities for criminal prosecution, as appropriate. Non-members of the community, such as guests or visitors, who inflict such behavior on campus, at campus events, or within campus programs may be referred for criminal prosecution, and/or barred from campus events and property, and/or referred to institutions or employers with which they are affiliated. Guests and/or visitors impacted by discrimination, harassment, sexual misconduct, and/or retaliation are protected by this policy.

A violation of any Webb Institute policy that is motivated by the actual or perceived membership of the victim in a protected class may be investigated, resolved, and remedied under this policy. Any misconduct related to or coinciding with a violation of this policy may also be investigated under this policy; however, misconduct found not to be in violation of this policy will not be subject to the procedures outlined in this policy, but will be resolved and remedied pursuant to the appropriate institutional procedures.

SCOPE OF POLICY

This policy applies to:

- anyone involved in academic, educational, and recreational programs
- visitors and guests
- applicants in the admissions process
- recipients and/or providers of any Webb program, including participants in Webb's Winter Work program
- subcontractors and all employees and applicants for employment in all positions.

The policy also encompasses Webb-sponsored events that occur off campus. This includes:

- off-campus incidents that have an on-campus impact or affect members of the campus community, regardless of whether such members are on or off campus
- off-campus and/or online speech or conduct, such as social networking sites, which causes a substantial disruption to the Institute's operations and/or mission or affects members of the campus community.

While the *Webb Guide to Residence Life* and *Student Organization Handbook* will govern complaints regarding general misconduct by students, this policy provides important definitions and other information that will be relevant to any member of the community, including students.

INDIVIDUAL SPEECH GUIDELINES, INCLUDING ACADEMIC FREEDOM

Webb Institute does have a role to play in encouraging the free flow of thoughts and ideas essential to higher education. Therefore, while the Institute does not encourage offensive or insensitive speech, principles of academic freedom limits Webb's ability to restrict speech that is germane to academic subjects and pedagogically appropriate to those subjects. However, when speech rises to the level of discrimination, harassment, sexual misconduct, and/or retaliation as defined in this policy, it cannot be protected by academic freedom and will be considered a violation of this policy.

DISCRIMINATION, HARASSMENT, SEXUAL MISCONDUCT, AND RETALIATION POLICY DEFINITIONS

1. Discrimination

Actions that deprive individuals of educational or employment access, benefits, or opportunities on the basis of the individual's actual or perceived protected status.

2. Harassment

Harassment prohibited by this Policy includes, but is not limited to, conduct which constitutes sexual misconduct or other unwelcome conduct of a sexual nature. This includes unwelcome sexual advances, requests for sexual favors, or any other visual, verbal, non-verbal, or physical conduct of a sexual nature.

Sexual harassment shall also include, but not be limited to, sexual violence, which refers to physical sexual acts that occur without consent and/or with force, or where a person is incapable of giving informed consent because of the use drugs or alcohol, intellectual or other disability, or age.

Harassment prohibited by this Policy may also consist of derogatory visual, verbal, non-verbal, or physical conduct that demonstrates bias based on an individual's actual or perceived protected status when:

- Submission to the conduct is made either explicitly or implicitly a term or condition of the individual's academic or employment status or advancement; or
- Submission to or rejection of the conduct is used as the basis for academic or employment decisions affecting the individual; or
- The conduct has the purpose or effect of unreasonably interfering with the individual's academics (including social and residential experiences) or work performance by creating a hostile environment, regardless of whether it is directed toward that or any specific individual.

Examples of prohibited conduct that constitutes harassment include, or may include, but are not limited to:

- Verbal or non-verbal repeated and unwelcome sexual advances, innuendoes or propositions, racial or sexual epithets, derogatory slurs, off-color jokes, threats, or suggestive or insulting actions and/or sounds.
- Unwanted physical contact including touching, interference with an individual's normal movement, or assault.
- Derogatory visual posters, cartoons or drawings; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures.
- Threatening or causing physical harm, or other conduct that threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a protected class.
- Intimidation, defined as implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class.
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person, when related to the admission, initiation, joining, or any other group-affiliation activity (as defined further in the *Student Organization Handbook*) on the basis of actual or perceived membership in a protected class. Hazing is illegal under New York State law and prohibited by Institute policy.
- Bullying, defined as repeated and/or aggressive behavior likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally, on the basis of actual or perceived membership in a protected class;
- Violence between those in an intimate relationship to each other on the basis of actual or perceived membership in a protected class (this includes romantic relationships, domestic, and/or relationship violence);
- Stalking, defined as a course of conduct directed at a specific person on the basis of actual or perceived membership in a protected class that is unwelcome and would cause a reasonable person to be in fear.

3. Hostile Environment

A hostile environment exists when: conduct is severe, pervasive or persistent, and is on the basis of actual or perceived membership in a protected class, and limits, denies or unreasonably interferes with an individual's work or academic experience (including social and residential participation).

A single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical.

4. Prohibited Relationships as Sexual Harassment

The nature of the academic experience at Webb requires faculty members to develop close, supportive working relationships with students. Personal bonds should not be permitted to interfere with the professor-student relationship. Faculty members are therefore prohibited from having sexual relations and/or romantically intimate or amorous relationships with any Webb students. Any such relationship will be treated as a case of sexual harassment and will be dealt with in accordance with this policy.

Similarly, any administrator or employee in a supervisory role may not have sexual relations and/or romantically intimate or amorous relationships with any student or employee they supervise directly or indirectly. If, after the commencement of a consensual sexual, amorous, or romantically intimate relationship, that is not prohibited by this policy, the parties learn that due to a change in their duties, responsibilities, assignments or positions, their relationship will now be prohibited, both parties are required to notify the Title IX Coordinator as soon as possible in order to determine how to proceed. Notification is required regardless of whether the consensual relationship still exists.

Persons involved in consensual sexual, amorous, or romantically intimate relationships outside of the faculty/student, supervisor/subordinate, or others previously noted, must exercise caution to prevent the development of harassing behavior or use of authority inappropriately. Consensual relationships can change and conduct once welcomed by both, may become unwelcome to one. The fact that there is initial consent to forming a romantic relationship or a specific sexual encounter does not preclude a charge of harassment in the future.

Webb will respond to all reports of prohibited or inappropriate sexual, amorous, or romantically intimate behavior.

5. Sexual Misconduct Violations

- a. Sexual Harassment
- b. Non-Consensual Sexual Intercourse: Defined as any sexual penetration or intercourse (anal, oral, or vaginal), however slight, with a body part or object, by a person upon another person, committed without consent and/or by force.

Sexual intercourse includes vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact. The use of force includes physical force or an expressed or implied threat of force.

- c. **Non-Consensual Sexual Contact:** Defined as any intentional touching of an intimate body part, either over the clothes or under the clothes, with a body part or object, for the purpose of sexual gratification or for no legitimate purpose, by a person upon another person, committed without consent and/or by force.

Sexual contact includes any bodily contact with the breasts, buttocks, groin, genitals, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

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

Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person(s) observed).
- Taking pictures, or video or audio recording of another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
- Prostitution, which includes acts of engaging in, soliciting, patronizing, facilitating, and promoting prostitution.

Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection. Sexual exploitation also includes administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent for the purpose of sexual activity.

6. Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on consideration of the following factors:

- the length of the relationship,
- the type of the relationship,
- the frequency of interaction between the persons involved in the relationship.

7. Domestic Violence

Violence committed by a current or former spouse of the victim, a person who shares a child in common with the victim, or a person who is cohabiting romantically with the victim.

8. Stalking

A course of unwanted conduct directed at a specific person on the basis of actual or perceived membership in a protected class that is unwelcome and which causes a reasonable person to be in fear for his or her own safety, or the safety of others.

9. Affirmative Consent

Affirmative Consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse).

A current or previous dating relationship (or prior sexual consent) is not sufficient to constitute consent.

The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred.

A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue. If that happens, the other person must stop immediately.

10. Incapacity

Incapacity is defined as the inability to make rational, reasonable decisions because of a lack of capacity to give informed consent (e.g., the person lacks the ability to understand the "who, what, when, where, why, or how" of engaging in sexual activity). This policy also covers a person whose incapacity results from mental, intellectual, or other disability, involuntary physical restraint, and/or from the use of alcohol or drugs.

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

sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

In New York State, a person under the age of seventeen cannot consent to sexual activity. Sexual activity or sexual contact between an adult and someone under the age of seventeen is a violation of this policy in accordance with the Penal Law of New York State.

11. Retaliation

- a. Retaliation is an intentional action taken by an accused individual or allied third party, absent legitimate non-discriminatory purposes, that harms an individual as reprisal for filing a complaint, supporting a complainant, or otherwise participating in a proceeding pursuant to this policy. Under no circumstances will Webb Institute tolerate any retaliation against an individual or group for making a complaint of harassment or discrimination in good faith under this policy or for participating in an investigation.

Examples of retaliation include, but are not limited to, the following actions taken because the individual has filed or makes known plans to file a complaint pursuant to this policy:

- A professor fails a student or assigns grades lower than the student earned because the student has filed or makes known plans to file a complaint against the professor.
- A coach excludes a student from a team or limits the amount of playing time of a student during an athletic activity because the student has filed or makes known plans to file a complaint against the coach.
- A supervisor gives deflated performance evaluations, or withholds deserved support for promotion, or requires punitive work assignments of an employee because the employee has filed or makes known plans to file a complaint against the supervisor.
- A professor or administrator excludes a student from participation in an organization, club, or activity or imposes an inequitable workload because the student or employee has filed or makes known plans to file a complaint against the professor or administrator.
- A third party or person disparages a student or employee because the student or employee supports a complainant or any other participant in the process.

- b. Other Elements of Discrimination, Harassment, Sexual Misconduct and/or Retaliation

Discrimination, harassment, sexual misconduct, and/or retaliation can occur between individuals of the same or different status, and all persons, regardless of gender or sexual orientation, can be the subject of—or perpetrator of—this conduct. This conduct can involve individuals or groups; can occur during one incident or over a series of incidents that in isolation, would not necessarily constitute discrimination or harassment, but can be so by pattern or repetition over time; and can be direct or systemic.

Each member of the campus community should avoid conduct that may be perceived by a reasonable person as discrimination, harassment, sexual misconduct, and/or retaliation.

INTENT

Failure to recognize that one's behavior is harassing or discriminatory to an individual or group of individuals is not an acceptable defense to discrimination, harassment, sexual misconduct, and/or retaliation. Differences in perception on the part of individuals involved in complaints of discrimination, harassment, sexual misconduct, and/or retaliation will be resolved based on the “reasonable person” standard in evaluating offensive behavior. Accordingly, all members of the Webb Institute community should consider how a reasonable person might view their behavior, not just their intent.

COOPERATION / OBSTRUCTING THE PROCESS

All members of the Webb Institute community, including students, faculty, and staff are expected to report all violations of this policy and assist and cooperate in the application of this policy, in particular by cooperating in any investigation under this policy. Any person who knowingly misrepresents the truth, or whose willful action or inaction obstructs the application of this policy, will be subject to disciplinary action.

1. Required Reporting

All members of the Webb Institute community are strongly encouraged to report an inappropriate situation, regardless of who is creating that situation. Individuals may also be required to report criminal actions by law. All persons who act in a supervisory, managerial, or instructional role are among those designated as “responsible employees” of Webb Institute, and, therefore, are required to report violations of this policy to the Title IX Coordinator. “Responsible employees” can be held responsible for actions or inaction that obstructs the application of this policy.

2. Responsible Employees

A “responsible employee” is any employee of the institution who has:

- The authority to take action to redress harassment,
- The duty to report harassment or other types of misconduct to appropriate officials, or
- Is someone the students or employees could reasonably believe has this authority or responsibility.

Responsible employees at Webb include all faculty members, executive staff members, members of the department handling student services, and advisors of on-campus organizations.

3. Reports Involving Minors

Child abuse includes both the physical and sexual abuse of minors under the age of eighteen. Webb employees are directed to bring all reasonable suspicions, beliefs, and allegations of child abuse immediately to the attention of the Title IX Coordinator, who will then make the appropriate report to the New York State Child Abuse Hotline (State Central Register). Reports can be made directly to the Child Abuse Hotline at 800-342-3720. Additional information about reporting is available at <http://ocfs.ny.gov/main/cps/>.

WHAT TO DO IF YOU ARE EXPERIENCING DISCRIMINATION, HARASSMENT, SEXUAL MISCONDUCT, AND/OR RETALIATION

If you think you are the subject of discrimination, harassment, sexual misconduct, and/or retaliation, it is recommended that you:

- Consider telling the person to stop the objectionable behavior, or consider asking for help to do so.
- Document what you are experiencing and date each occurrence.
- Report the objectionable behavior (see “Reporting Process” below) before you consider resigning from a position, transferring departments, dropping a class, or changing a class to avoid the problem.
- Familiarize yourself with policies, support services, and resources available.

1. Confidentiality and Privacy in the Reporting Process

Confidentiality (meaning privacy of information about complaints and investigations) will be maintained to the extent required by law and to the extent possible given Webb Institute’s obligations under the law and under this policy. At the beginning of the process, Webb Institute will inform the complainant about confidentiality standards and privacy concerns.

Webb Institute will evaluate a request not to act on a complaint in the context of its responsibility to provide a safe and nondiscriminatory environment for all. Therefore, while absolute confidentiality cannot be promised, Webb Institute will treat the concerns of the complainant with sensitivity and respect. A request for confidentiality, however, may limit Webb Institute’s ability to respond.

2. Confidential Resources and Support

Webb encourages all members of the campus community to report incidents related to this policy. However, individuals who are not ready or willing to make a formal report, but still wish to speak with someone, can utilize the confidential resources of the Student Assistance Program or the Employee Assistance Program, and resources listed at the end of this policy. These resources are subject to legal confidentiality obligations that prohibit the release of information without the express consent of the individual.

3. Amnesty

Webb Institute seeks to remove any barriers to reporting incidents of sexual misconduct and recognizes that a student who has been drinking or using drugs at the time of an incident of sexual misconduct may be hesitant to report this due to a fear of the potential disciplinary consequences that can arise as a result of these actions. Therefore, a Webb Institute student who reports sexual misconduct, either as a complainant or a third party witness, will not be subject to disciplinary action by Webb Institute or Webb Institute's Student Organization for personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The institute may, however, initiate any educational discussions or pursue other educational remedies regarding alcohol or other drugs.

4. The Reporting Process

Any employee, student, or third party who believes that he/she is or may have been subjected to discrimination, harassment, sexual misconduct, and/or retaliation is strongly encouraged to report it in accordance with the procedures set forth in this policy.

For emergency or immediate assistance (twenty-four hours a day, seven days a week) contact the Glen Cove Police Department (516) 676-1000 or 911. All emergency contact numbers are listed in this document, on the Webb Institute website and are posted publicly around campus.

For matters pertaining to sexual discrimination, sexual harassment, sexual misconduct, and/or related retaliation contact Matthew Werner, Title IX Coordinator at:

- Office: 516-671-2213 ext. 1110
- Direct: 516-403-5924
- titleIX@webb.edu
- Cell: 516-776-3038
- Home: 631-207-9400

To file a complaint involving the Title IX Coordinator, direct your complaint to the Director of Human Resources. Anyone who reports misconduct to the above resources will be informed about the process, as outlined in this policy.

The Complaint Form is available on Webb Institute's website and in the offices of the Title IX Coordinator, Director of Student Affairs, and Director of Human Resources. You may choose to file this complaint form anonymously. This form will be received and reviewed by the Title IX Coordinator unless the complaint is against the Title IX Coordinator, in which case the form will be returned to, and reviewed by, the Director of Human Resources.

Webb Institute will comply with all federal, state and local mandates regarding the reporting of crimes to appropriate authorities.

Inquiries concerning the application of Title IX may be referred to:

- Title IX Coordinator
- Office for Civil Rights (OCR) U.S. Department of Education
 - 400 Maryland Avenue, SW, Washington, DC 20202-1100.
 - Customer Service Hotline #: (800) 421-3481
 - Facsimile: (202) 453-6012
 - TDD#: (877) 521-2172
 - Email: OCR@ed.gov
 - Web: <http://www.ed.gov/ocr>
- U.S. Equal Employment Opportunity Commission (EEOC)
 - 131 M Street, NE Washington, DC 20507
 - Phone: 202-663-4900 / (TTY) 202-663-4494, 1-800-669-4000
 - Email info@eeoc.gov
 - Web: <http://www.eeoc.gov/contact/index.cfm>

5. Making a Report to the Police

A complainant may contact local law enforcement or the state police directly, whether or not a complaint has been filed with Webb Institute. If requested, Webb Institute will provide assistance with making this contact. Upon notice of the complaint, Webb Institute's investigation will proceed regardless of whether a criminal matter is pending, though short delays may be allowed for outside law enforcement agencies to conduct their investigation.

6. Timing of the Investigation

There is no time limit on when a complaint must be made. Webb Institute will conduct an investigation and make all efforts to provide a resolution of the investigation usually within sixty (60) days from the time the college receives notice. However, the resolution of a complaint may vary depending on the complexity of the investigation and/or extent of the alleged harassment or discrimination. The sixty (60) day time period does not include the time period for the appeal process.

PROCESS FOR RESOLUTION OF ALLEGATIONS OF DISCRIMINATION, HARASSMENT, SEXUAL MISCONDUCT, AND/OR RETALIATION

Once a complaint or notice is received, it will be reviewed by the Title IX Coordinator. Complainants will be asked to either complete a written complaint, or meet with the Title IX Coordinator who will complete a written complaint and ask the complainant to read and sign a verification of the complaint allegations. The Title IX Coordinator, or designated impartial investigator(s), will conduct an immediate preliminary investigation to determine if this policy may have been violated. The investigator(s) will consider interim action, accommodations for the alleged victim, or other necessary remedial short-term actions. If it is determined that this policy may have been violated, Webb Institute will initiate a prompt, thorough, and impartial investigation, including effective remedies designed to end the discrimination, harassment, or retaliation, prevent recurrence, and address the effects on the victim and the community.

To ensure a prompt and thorough investigation of a complaint, the complainant should provide as much of the following information as possible:

1. The name, department, and position of the person or persons allegedly engaging in discrimination, harassment, sexual misconduct, and/or retaliation.
2. A description of the incident(s) including the date, location, and the identity of any witnesses.
3. If the complainant is an employee, the alleged effect of the incident on the complainant's position, salary, benefits, promotional opportunities, or other terms or conditions of employment.
4. If the complainant is a student, the alleged effect of the incident on the complainant's academic standing, housing environment, or social status or other terms or conditions of the educational environment.
5. The names of other persons who might have been subject to the same or similar discrimination, harassment, sexual misconduct, and/or retaliation.
6. Steps taken, if any, by the complainant to stop the discrimination, harassment, including sexual misconduct, and/or retaliation (such steps are not required, but can be helpful).
7. Any other information the complainant believes relevant to the discrimination, harassment, sexual misconduct, and/or retaliation.

Actual or Constructive Notice

Regardless of whether a victim files a complaint or requests action, if Webb Institute has knowledge, or reasonably should know, about possible discrimination, harassment, sexual misconduct, and/or retaliation, the college will conduct a prompt, thorough, and impartial investigation. Webb Institute will also prepare a written record of the complaint if the complainant refuses to file or verify a written complaint form to record the details of the complaint.

INVESTIGATIONS

Prior to commencing an investigation of a complaint of discrimination, harassment, sexual misconduct, and/or retaliation, the written consent of the complainant, if known, shall be requested. If the complainant is under the age of eighteen (18) years, and does not attend a post-secondary institution, the parents of the complainant will be asked to provide written consent for the investigation. Regardless of whether the consent of the complainant or a minor complainant's parents is given, Webb Institute has a duty to investigate allegations of discrimination, harassment, sexual misconduct, and/or retaliation.

Upon receipt of a complaint of discrimination, harassment, sexual misconduct, and/or retaliation, a trained investigator(s) will be assigned to investigate the allegations of the complaint. The investigator(s) will be assigned according to this section based upon who the accused individual might be. The investigation will be conducted within a reasonable amount of time and will normally be completed within 60 days. The investigation shall be conducted in a manner that is adequate, reliable, and impartial and may include any of the following:

- Interviews of the complainant and the accused
- Interviews of any witnesses
- Gathering of any other relevant information, including but not limited to, past complaints of a similar nature raised against either party. The investigator(s) will make every effort to keep the complainant informed, in a timely basis, about the status of the investigation.

1. Interim Measures

At any time during the investigation, the investigator(s) may recommend reasonable interim protections or measures for the parties involved or witnesses. These protections and measures may include, but not be limited to, separating the parties, placing limitations on the parties, suspension, making alternative workplace or student housing arrangements, or reasonable academic adjustments.

2. Complaints Accusing Employees

The Title IX Coordinator or designee(s) will investigate all Title IX complaints of discrimination, harassment, sexual misconduct, and/or retaliation accusing employees. The Title IX Coordinator may assign investigators to investigate and resolve other complaints of discrimination, harassment, and/or retaliation accusing employees. Any employee who, after appropriate investigation, has been found to have violated this policy, will be subject to disciplinary action, which may include reprimand, suspension from service for a stated period, with or without pay, termination of employment, or such other responsive actions deemed appropriate for the violation.

3. Complaints Accusing Students

The Title IX Coordinator or assigned investigator(s) will investigate all Title IX complaints of discrimination, harassment, sexual misconduct, and/or retaliation accusing students.

Upon completion of the investigation if there are sufficient grounds to proceed, the matter will be adjudicated consistent with this policy.

The Title IX Coordinator or designee(s) will investigate and resolve other complaints of discrimination, harassment and/or retaliation accusing students, consistent with this policy.

Any student who, after an appropriate investigation and adjudication, has been found to be in violation of this policy, will be subject to disciplinary action, which may range from a warning to expulsion, depending on the severity of the misconduct, the student's cumulative conduct record, institutional precedent, and other mitigating or aggravating circumstances.

4. Complaints Accusing Third-Parties and Complaints of Third Parties that Occur

Normally, the Title IX Coordinator or a designated representative(s) of the college will investigate complaints accusing non-students and non-employees of incidents related to the Webb Institute's programs and activities that take place on or off of campus. Any third party who, after appropriate investigation, has been found to have violated this policy, will be subject to restriction from Webb Institute, cancellation of vendor contacts, discontinued use of placement sites, or such other responsive actions deemed appropriate for the violation. Referrals may also be made to law enforcement, as appropriate.

DISPUTE RESOLUTION OPTIONS

If the complaint is for discrimination, harassment, sexual misconduct, and/or retaliation, then either an informal or formal resolution process may be used. However, a complaint involving sexual assault or physical violence of any kind cannot be resolved through mediation.

In either process the evidence to be considered may include:

- witness statements,
- information from the informal resolution process if one was conducted,
- other relevant information, and
- consideration of known patterns and previous history evidence.

Each party will be apprised that they may be accompanied by an advisor, if applicable. No Webb Institute employee, student, or third party may be accompanied by an attorney unless:

- they are a complainant or respondent in a matter referred to a formal hearing as described in this policy;
- criminal charges arising from the same incident have been filed; or
- there is a case involving allegations of sexual violence, dating violence, domestic violence, and stalking.

Both the complainant and the accused have the right to be accompanied by an advisor of their choice to any related meeting or institutional disciplinary proceedings.

1. Informal Resolution Process

Certain complaints of discrimination, harassment, sexual misconduct, and/or retaliation can be resolved through informal resolution procedures. These informal procedures may include, but are not limited to, an informal investigation, mediation, counseling, and/or any other means of resolving a complaint other than a formal resolution process. The use of the informal resolution process is voluntary and must be agreed to by the complainant, the accused, and the investigator(s). Either the complainant or the accused may end an informal process at any time and choose to pursue the formal resolution process, or the complainant can choose not to pursue the matter further.

The assigned investigator(s) will meet with the complainant to discuss the complaint and the process. The investigator(s) will explain to the complainant the nature of the informal resolution process, and, if acceptable to the complainant, the investigator(s), whenever possible, appropriate and safe, will attempt to resolve the problem or complaint through an informal resolution process. The complainant will not be required to meet with the accused individual face to face. The informal resolution process attempts to resolve the issue with the complainant and the accused individual by mutual agreement, which will be finalized in writing. Once a mutually agreed upon resolution is suggested, it will be reviewed, accepted, or modified by the Dean or the President in consultation with the Title IX Coordinator.

Once the recommendation for the informal resolution is approved, written notification will be prepared promptly by the Title IX Coordinator. The notification will specify the findings and the terms of the approved resolution. If either party is dissatisfied with the approved resolution, either may make a request within seven (7) business days of issuance of the written notification for formal resolution proceedings.

In cases involving faculty members, all mutually agreed upon resolutions are subject to the approval of the President. After review of a proposed resolution, the President will issue an outcome letter to the faculty member, with a copy to the Title IX Coordinator, the Dean, and the Director of Human Resources.

In cases involving employees other than faculty members, all mutually agreed upon resolutions are subject to the approval of the President. After review of a proposed resolution, the President will issue an outcome letter to the employee, with a copy to the Title IX Coordinator and the Director of Human Resources.

2. Formal Resolution Process

If the complaint cannot be resolved informally, or if the action complained of is not appropriate for resolution through the informal resolution process, then the investigation will continue to a formal resolution process. If not previously done, either the

investigator(s) or the alleged victim should prepare a written complaint to initiate the formal resolution process. The complaint should clearly and concisely describe the alleged incident(s), when and where it (they) occurred, details/witnesses, and the desired remedy or remedies sought. The complainant should sign the complaint.

The formal resolution process requires a formal hearing to be held to consider the complaint and the findings of the investigator(s).

- **Complaint Review Panel**

The Complaint Review Panel (CRP) will make up the body that hears cases of complaints that include accusations of actions that violate this policy. Members of the CRP may also serve on appeal boards. The CRP is comprised of trained members of Webb's faculty, staff, and administration. The President will appoint the members of the CRP. The panel will report to the Title IX coordinator.

At the direction of the Title IX coordinator, the members of the CRP may also serve in the following roles:

- counsel complainants
- serve in a mediation role
- act as advocates for parties involved in a complaint
- recommend policy and procedure changes related to this policy

- **Hearing Procedures**

CRP hearings will be convened within one or two weeks of the completion of the investigation unless special circumstances require the start of the hearing to be moved back. All hearings will be conducted in private. The CRP has the authority to review all cases involving alleged violations of this policy and may also hear any additional policy violations that occurred in concert with the alleged violation(s).

- **Participants**

Participants in the hearings will include:

- non-voting Chair of the CRP
- three members of the CRP
- the investigator(s) who conducted the investigation of the complaint
- the reporting party
- the responding party(ies)
- advisors/advocates to the parties
- called witnesses

Observers will not be permitted at the hearing. Witness will only be permitted to be present at the hearing when they have information relevant to the ongoing discussions.

- **Notification of Hearing**

The Chair of the hearing will provide the information to the parties at least two business days before the hearing:

- the names of the CRP members participating in the hearing
- all pertinent evidence and findings from the investigators report
- a list of all witness that the institution plans to call to testify

- **Conflict of Interest**

All participating members of the CRP will be impartial and free of conflict of interest as the hearing process is conducted. Should either party object to any member of the CRP assigned to the hearing, they are to present their objections in writing to the Chair of the CRP or the Title IX coordinator. The Chair of the CRP will determine if the objection has merit and will make the final determination if a specific member of the CRP is to be replaced by an alternate. If a CRP member or the Chair feel that he or she has a conflict of interest, he or she must recuse him or herself from the hearing proceeding in advance of the hearing date.

- **Hearing Agenda**

- Chair explains the hearing procedures
- Participants are introduced
- Investigator(s) present the investigation report
- Questioning of investigator(s) by both parties and the CRP
- Questioning of and by both parties
- Questioning of witnesses

All parties will have the opportunity to present facts and arguments in full and question all witnesses involved with the hearing. The Chair will define the questioning methods to be used during the hearing. For example, because of the nature of the complaint the parties may not be permitted to conduct formal cross examinations of each other. Anyone appearing at the hearing to present information must respond to questions on his or her own behalf.

No one will be permitted to present information or raise questions concerning:

- incidents not directly related to the possible violation, unless they show a pattern
- the sexual history or of the character of the complainant.

- **Evidence**

Formal rules of evidence do not apply. Any evidence that the CRP members believed to be credible and relevant may be considered. Evidence related to history and

patterns of behavior may be considered. The Chair will rule on concerns over evidence and may exclude immaterial, irrelevant, or evidence lacking credibility.

Character witnesses will not be permitted at the hearing. Parties may present to the Chair for the CRP's consideration up to three letters from character references.

- **Complaints Involving Multiple Parties**

In hearings involving more than one accused party, the complaints will be held jointly. In such a case, separate determinations of responsibility will be made for each accused party.

Similarly, if two or more complainants have accused the same party with similar conduct, the complaints will be held jointly.

The Title IX Coordinator or the Chair in special circumstance may permit complaints involving multiple parties to be handled in separate hearings.

- **Record of Hearing**

Hearings will be recorded to allow the proceedings to be reviewed in the event of an appeal. CRP members, the involved parties, and the President and his designees will be allowed to review the recording under conditions specified by the Title IX coordinator. Copying of the hearing recording will not be permitted.

- **Privacy**

The hearing proceedings are to remain private. All participants in the hearing are expected to maintain that privacy. Individuals found to have failed to maintain the privacy of the hearing are subject to sanctions by Webb Institute. Parties are permitted to share their own personal experiences if they desire.

- **Findings and Disciplinary Actions**

If the CRP determines, from a preponderance of the evidence, that a violation of this policy has occurred, a recommendation for sanctions or other appropriate measures will be submitted to the President for review, and will either be approved or modified.

The final outcome of the hearing will be sent, simultaneously, and in writing to the complainant and to the respondent within ten (10) business days of the conclusion of the formal resolution process. While the outcome of the complaint will be provided in writing to both the complainant and the respondent, certain disciplinary action taken against the respondent, as a result of the investigation, may be kept confidential from the complainant as required by law.

Recommendations for disciplinary action against faculty members accused of violations of this policy will be forwarded to the President who will initiate disciplinary proceedings in accordance with the *Webb Faculty Handbook*. After the completion of the proceedings, the President will issue an outcome letter to the faculty member with a copy to the Title IX Coordinator, the Dean, and the Director of Human Resources.

Recommendations for disciplinary action against employees, other than faculty members, accused of violations of this policy will be forwarded to the President who will initiate disciplinary action in accordance with the *Webb Institute Employee Handbook*. After the completion of the disciplinary actions, the President will issue an outcome letter to the employee with a copy to the Title IX Coordinator and the Director of Human Resources.

3. Appeal Process

The complainant or the accused individual may request an appeal of the findings of the college regarding the formal resolution process. A request for such an appeal must be submitted in writing to the Title IX Coordinator or designee within three (3) business days of the receipt of written notification of the original outcome. If no request is made in that time, then the decision is rendered final and the parties will be simultaneously so informed. An appeal of the decision may be considered if one of the following grounds is present:

- A procedural error has occurred that significantly impacted the outcome (*e.g.*, substantiated bias, material deviation from established procedures, etc.). This error must be described in the letter requesting an appeal. Minor or harmless deviations from the process will not invalidate the proceedings;
- The discovery of significant and relevant new information that was unavailable during the original process, which has become available and could impact the outcome. A summary of this new evidence, why it was previously unavailable, and its potential impact must be included in the request for an appeal;
- The sanction imposed is clearly not appropriate for the violation.

Once a request for an appeal, as defined above, is received, a decision will be rendered on eligibility for appeal by Title IX coordinator, usually within ten (10) business days.

If grounds are not met, the request for an appeal will be denied with no further appeal through this policy and the parties will be simultaneously so informed.

If appropriate grounds are present, these will be presented to an Appeals Board whose membership will be designated by the President from among three members of the campus community and appropriate to the individuals involved or will be returned to the original hearing body for reconsideration. Regardless of whether all parties request an appeal, the complainant and accused individual will be made aware of, and permitted to participate in, the appeal as it will be the only appeal conducted and its conclusion will be final. Where the complainant and accused individual each request to appeal on different grounds, those grounds will be consolidated into one appeal process.

Whenever possible, reconsideration by the original hearing body is preferred, as their familiarity with the complaint makes them better able to determine responsibility and to assign appropriate sanctions. The Appeals Board will make changes to the finding only where there is clear procedural error and changes to the sanction(s), only if there is a compelling justification to do so.

An appeal proceeding will include all parties to the complaint and all related documents. The Appeals Board will be solely responsible for determining who should participate, what information is needed, and how proceedings will be structured.

Because the scope of the appeal proceedings is limited to the allowable grounds, full re-hearings are exceptionally rare. A successful appeal permits the original deciding body or investigator(s) to consider only the matter resulting in a remand, such as the new evidence, or to address only those other grounds that were determined to be present and significant. If an appeal is heard, then the final outcome of the appeal will be communicated simultaneously to the parties usually within five (5) business days following deliberations.

4. Standard of Proof for Resolution Processes

The standard of proof for findings shall be a preponderance of the evidence. A preponderance of the evidence means such evidence that, when considered and compared with that opposed to it, is superior in weight, force, and importance. A preponderance of evidence means that the party has demonstrated that its version of the facts is more likely than not the correct version.

FALSE COMPLAINTS

A complainant who knowingly makes untrue allegations against another member of the Webb Institute community or third party may be subject to disciplinary action. An inquiry into a false complaint is considered to be a separate complaint and is resolved through a separate investigation.

POLICY REVIEW

This policy will be reviewed for possible revision every three years, or as otherwise necessary.

RECORDS

Employee records will be maintained for seven years. Records pertaining to students will be maintained for seven years after the student's graduation or after seven years of academic inactivity, or in the event of suspension/expulsion, will be kept indefinitely.

The academic records of students that have been found to have violated this policy will be handled in accordance with Webb Institute's Policy and Procedure for Transcript Notation per New York Education Law 129-B. This policy is posted on Webb's website and a written or electronic copy can be obtained upon request from the Registrar.

RESOURCES

Title IX Coordinator:

Matthew Werner
Office: 516 671 2213 ext. 1110
Direct: 516 403 5924
titleIX@webb.edu
Cell: 516 776 3038
Home: 631 207 9400

Glen Cove Police:

Emergency 911
Non-Emergency 516 676 1000

New York State Police:

College Campus Sexual Assault Hotline: 1-844-845-7269
Non-Emergency 631 756 3300 (Troop L Headquarters)

To speak with someone confidentially:

New York State Domestic and Sexual Violence Hotline: 1-800-942-6906
Nassau County Rape/Dating, Domestic Violence Hotline: 516-542-0404

Student Assistance Program: 1-800-225-2527 (Provides confidential counseling and other support services free of charge to students in need.)

Employee Assistance Program 1-888-293-6948 (Provides confidential counseling and other support services free of charge to employees in need.)

To report Title IX violations to outside agencies:

Office for Civil Rights (OCR) U.S. Department of Education

- 400 Maryland Avenue, SW, Washington, DC 20202-1100.
- Customer Service Hotline #: (800) 421-3481
- Facsimile: (202) 453-6012
- TDD#: (877) 521-2172
- Email: OCR@ed.gov
- Web: <http://www.ed.gov/ocr>

U.S. Equal Employment Opportunity Commission (EEOC)

- 131 M Street, NE Washington, DC 20507
- Phone: 202-663-4900 / (TTY) 202-663-4494, 1-800-669-4000
- Email info@eoc.gov
- Web: <http://www.eoc.gov/contact/index.cfm>