



# Discrimination and Harassment Policy

Webb Institute fosters a positive community environment in which all employees and students enjoy a work and academic environment that is free from illegal discrimination or harassment. The intent of this policy is to prevent the occurrence of any form of discrimination or harassment by expressing the college's strong disapproval of such action, providing a means for community members to report incidents of discrimination or harassment, setting forth procedures for handling allegations, sanctioning appropriate punishment of those who violate this policy, and informing community members of their right to raise issues of discrimination or harassment and the procedures to be followed in doing so. This policy seeks to protect the rights of the complainant and the accused.

Webb Institute adheres to all federal, state, and local civil rights law banning discrimination in higher education institutions. The College prohibits discrimination and harassment against any employee, application for employment, volunteer, student, or applicant for admission based on age, race, creed, color, religion, national origin, alienage or citizenship status, ethnicity, sexual orientation, military status, familial status, domestic violence victim status, gender identity, transgender status, or gender dysphoria.

## **Non-Discrimination and Harassment**

The College confirms its commitment to promote the goals of fairness and equality in all aspects of the educational enterprise.

This policy prohibits discrimination and harassment in employment and in access to educational opportunities based on actual or perceived membership in a Protected Class. Any such discrimination or harassment will be appropriately addressed by the College according to this policy.

This policy also prohibits aiding or inciting another person or persons to violate this policy. The College prohibits retaliation against any college community member who participates in any complaint process under this policy.

This policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include relevant, but controversial or sensitive subject matters protected by academic freedom.

The College may respond to any incident or behavior that could have an on-campus impact or otherwise infringes upon the educational mission of the College, even if the incident or behavior occurred off-campus or online.

Deliberately false and/or malicious accusations of harassment, discrimination, or retaliation are serious offenses and persons who make such accusations will be subject appropriate disciplinary action.

## **Retaliation**

Retaliation against an individual for alleging harassment, discrimination, or sexual misconduct, for supporting a person filing a complaint of harassment, discrimination, or sexual misconduct, for assisting in providing information relevant to a claim of harassment, discrimination, or sexual misconduct, or for otherwise participating in an investigation of a complaint of harassment, discrimination, or sexual misconduct is a serious violation of this policy.

Acts of alleged retaliation should be reported immediately to the Dean, Director of Human Resources, or the Title IX Coordinator and will be promptly investigated. The College will take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

## **Reporting of Offenses Under This Policy**

College employees have an obligation to report allegations of misconduct and violations of this policy. Failure to report allegations of misconduct may result in disciplinary action up to and including termination, and/or dismissal from the College. Some employees, such as the college-employed counselor, are permitted to maintain confidentiality of reports.

### Reporting Options

- Board of Trustees, faculty, administration, staff, volunteers as well as anyone doing business with or for the College:
  - Immediate supervisor
  - Dean
  - Title IX Coordinator
  - Director of Human Resources
- Students: Are encouraged to report the matter to the following college officials:
  - Dean
  - Director of Admissions and Student Affairs
  - Title IX Coordinator

If the complaint involves Title IX matters, the Title IX Coordinator will promptly and thoroughly investigate the facts and circumstances. See <http://www.webb.edu/wp-content/uploads/2016/02/SEXUAL-MISCONDUCT-POLICY-AND-PROCEDURES-2018.pdf>

If the complaint involves any other alleged violation of this policy, the Dean or the Director of Human Resources will promptly and thoroughly investigate the facts and circumstances. To the extent possible, the College will endeavor to keep the complainant's concerns confidential, however, confidentiality cannot be guaranteed. Upon completion of the investigation, the College will take whatever corrective measures the College determines necessary using existing College grievance resolution and grievance procedures.

### Review Process

Complaints can be made orally or in writing. The person to whom the complaint is brought should then counsel the complainant on the process available under this policy and/or other applicable Webb Institute policies. All reports received under this policy will be reviewed and/or investigated as deemed appropriate by the college, and appropriate action will be taken to address the matter.

- When an employee is involved in any concern related to any non-student, the Director of Human Resources and department head, or other such person whom the Human Resources Director and the President deem appropriate will conduct the investigation.
- When a student is involved in any concern related to staff or a faculty member, the Dean will be involved with the investigation along with the Human Resources Director and department head, or other such person whom the Director of Human Resources and the President deem appropriate.
- When a student is involved in any concern related to another student, the Dean and the Director of Admissions and Student Affairs will conduct the investigation in accordance with the Webb Code of Conduct.
- As a rule, raising a concern will in no way obligate an individual to pursue any course of action. However, the seriousness of an alleged offense may require the college to act on information it has received even if the person providing the information chooses not to pursue a formal complaint.
- All individuals raising a complaint and all persons accused of violating this policy shall fully cooperate with any investigation, including supplying written statements, if requested. All other persons associated with the college shall fully cooperate with any such investigation if and to the extent requested.

### Corrective Action

Webb Institute will make every effort to handle complaints and investigations with sensitivity to both the rights of the person who complains and the rights of the accused and will endeavor to maintain confidentiality throughout the investigatory process to the extent practicable and appropriate under the circumstances. However, to conduct an effective

investigation, Webb Institute may need to discuss the allegations with the subject of the complaint and other potential witnesses. Records relating to harassment and discrimination complaints and investigations will be maintained only in confidential files, and all individuals receiving information about the allegations will be warned of the consequences of retaliation.

For matters involving employees, after an investigation is complete, the Director of Human Resources will review the results of any investigation. Such review often will be in concert with legal counsel and the department head in which the complainant and accused harasser work. In an employee matter that also involves a student, the Director of Human Resources will also coordinate with the Dean.

The complaint will then either be dismissed, or appropriate corrective and/or disciplinary action will be taken, in accordance with applicable college policies and procedures. If the subject of a complaint is a faculty member, the relevant provisions of the *Webb Institute Employee Handbook* shall apply. If the subject of a complaint is a student, the relevant provisions of the *Webb Institute Student Handbook* shall apply.

The actions and policies of Webb Institute are not intended to pre-empt or replace the definitions or principles outlined in Title VII and Title IX of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, or other applicable federal, state, or local law. Having said this, the expectations and requirements on community members established by this policy are, in some cases, broader than such statutory limits. In addition, the penalties for discrimination and harassment within the college community will depend on the nature of the offense and may include sanctions, up to and including dismissal.

## **Definitions**

### College Community

- All Board of Trustees, faculty, administration, staff, and students

### Age Discrimination

- Involves treating someone (an applicant or employee) less favorably because of his or her age; age 40 or older.
- EEOC Guidelines, found at <http://www.eeoc.gov/laws/types/age.cfm>
- Age Discrimination in Employment Act (ADEA)

### Alienage or citizenship status discrimination

- “Makes it illegal for an employer to discriminate with respect to hiring, firing, or recruitment or referral for a fee, based upon an individual’s citizenship or immigration status. Similarly, makes it illegal for an institution of higher education to discriminate with respect to admission based upon an individual’s citizenship or immigration status.”
- EEOC Guidelines, found at <http://www.eeoc.gov/laws/types/nationalorigin.cfm>
- Immigration Reform and Control Act of 1986 (IRCA)

### Criminal conviction discrimination

- “No application for any license or employment, and no employment or license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual’s having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of “good moral character” when such finding is based upon the fact that the individual has previously been convicted or one or more criminal offenses, unless:
  - There is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or
  - the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the public.”
- New York State Corrections Law, Section 752

## Disability

- “(a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic, or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques, or (b) a record of such an impairment, or (c) a condition regarded by others as such an impairment, provided, however, that in all provisions of this article dealing with employment, the term shall be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held.”
- NY Executive Law, Article 15, Human Rights Law, Sec. 292.21(21).

## Discrimination

- Actions that deprive or limit access to education, employment, benefits, or other opportunities based on an individual’s actual or perceived membership in a Protected Class.

## Gender

- Attitudes, feelings, and behaviors that a given culture associates with a person’s biological sex
- American Psychological Association Definitions found at <https://www.apa.org/pi/lgbt/resources/sexuality-definitions.pdf>

## Gender Dysphoria

- “a recognized medical condition related to an individual having a gender identity different from the sex assigned to him or her at birth.”
- Proposed NY Executive Law, Article 15, Sec. 446-13 (b)(3)

## Gender Expression

- “how someone expresses gender through appearance, behavior, or mannerisms. A person’s gender expression may or may not be the same as the Gender Identity or assigned sex at birth.”
- Guidelines regarding Gender Identity Discrimination, Administrative Code of NYC, found at <http://www.trans-health.org/sites/www.trans-health.org/files/NYC%20GenderDisGuidelines.pdf>

## Gender Identity

- “having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth.”
- Proposed NY Executive Law, Article 15, Sec. 446.13 (b)(1)

## Harassment

- Any unwelcome conduct that: (1) has the purpose or effect of creating an intimidating, hostile, or offensive working or educational environment; or (2) has the purpose or effect of unreasonably interfering with an individual’s work or educational performance; or (3) otherwise adversely affects an individual’s employment or educational opportunities. Examples include vulgar or offensive conversation or jokes; unwelcome comments about an employee’s physical characteristics, religious beliefs, ethnic background, medical condition, or disability; teasing, slurs, threats, derogatory comments, or other similar verbal, non-verbal or physical conduct directed toward a person, which is sufficiently severe or pervasive to create an unprofessional and hostile working or educational environment.
- EEOC Guidelines, found at <http://www.eeoc.gov/laws/types/harassment/cfm>

## National Origin/Ethnicity

- “Involves treating people (applicants or employees) unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not). National-origin discrimination also can involve treating people unfavorably because they are married to (or associated with) a person of a certain national origin or because of their connection with an ethnic organization or group.”
- EEOC Guidelines, found at <http://www.eeoc.gov/laws/types/nationalorigin.cfm>

#### Predisposing genetic characteristics

- “Any inherited gene or chromosome, or alteration thereof, and determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medical believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of development of a physical or mental disease or disability.”
- NY Executive Law, Article 15, Human Rights Law, Sec. 292.21 (21-a)

#### Protected Class

- A group of people protected from discrimination and harassment based upon membership in the specific group. Under this policy, protected classes including age (40 or over), race, creed, color, religion, national origin, alienage or citizenship status, ethnicity, sexual orientation, military status, sex, gender, disability, predisposing genetic characteristics, criminal conviction, marital status, familial status, domestic violence victim status, gender identity, transgender status, or gender dysphoria.

#### Race/color

- “Race discrimination involves treating someone unfavorably because he or she is of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color complexion. Race/color discrimination also can involve treating someone unfavorably because the person is married to (or associated with) a person of a certain race or color or because of a person’s connection with a race-based organization or group, or an organization or group that is generally associated with people of a certain race or color.”
- EEOC Guidelines, found at [http://www.eeoc.gov/laws/types/race\\_color.cfm](http://www.eeoc.gov/laws/types/race_color.cfm)

#### Religion/Creed

- “Religious discrimination involves treating a person unfavorably because of his or her religious beliefs or because she or he does not subscribe to a belief system. The law protects not only people who belong to traditional, organized religions such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical, or moral beliefs.”
- Religious discrimination can also involve treating someone differently because that person is married to (or associated with) an individual of a particular religion or because of his or her connection with a religious organization or group or because he or she does not subscribe to a belief system.”
- EEOC Guidelines, found at <http://www.eeoc.gov/laws/types/religion.cfm>

#### Retaliation

- Any adverse action a college community member experiences because of the college community member making an inquiry, participating in an investigation, or making a reasonably good-faith report of possible non-compliance with laws, regulations, and policies.

#### Sex

- “includes gender identity and the status of being transgender.”
- Proposed NY Executive Law, Article 15, Sec. 446.13 (3)(c)(1)

#### Sexual Orientation

- “heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived. However, nothing contained herein shall be construed to protect conduct otherwise proscribed by law.”
- NY Executive Law, Article 15, Human Rights Law, Sec. 292.21(27)

#### Transgender

- “an individual who has a gender identity different from the sex assigned to him or her at birth.”
- Proposed NY Executive Law, Article 15, Sec. 446.13 (b)(2)