



To: All Faculty and Staff
From: Vice President of Finance
Date: November, 2020
Subject: Sexual and Discriminatory Harassment Policy

Purpose

The mission of Holy Cross College must be carried out in a culture of respect for oneself and others. All employees and students have a right to work and study in an environment free from all forms of discrimination and harassment, including sexual harassment, intimidation, retaliation or coercion. The College is committed to providing a work and educational environment free from sexual and discriminatory harassment. Harassment of any kind is antithetical to the mission of Holy Cross.

Rescission

Sexual Misconduct and Harassment Policy

Overview

This policy extends to the conduct of all faculty, and staff toward any faculty, staff, student, contractor, vendor, visitor or other individual affiliated with Holy Cross College while acting in his or her capacity as an employee of the College.

The College will not tolerate sexual or discriminatory harassment (as defined in this policy) by or against its employees, applicants, students, contractors, vendors, visitors, or other individuals affiliated with Holy Cross College. Sexual or discriminatory harassment may or may not directly affect or interfere with an individual's work or academic performance, or create an intimidating, hostile, or offensive work or educational environment. The College should be immediately alerted to any such conduct so that it can take immediate and appropriate corrective action to prevent further harassment. Individuals who engage in conduct prohibited by this policy may be subject to disciplinary action, up to and including termination or dismissal.

Prohibition of Sexual Harassment

Sexual harassment is a form of sex discrimination that is illegal under both state and federal law, including under Title VII of the Civil Rights Act of 1964. Sexual harassment is generally defined as

unsolicited and/or unwelcome sexual advances, requests for sexual favors, and other visual, verbal or physical conduct of a sexual nature directed to a person of the same or of the opposite sex when:

- Submission to such conduct is explicitly or implicitly made a term or condition of employment;
- Submission to or rejection of this conduct is used as a basis for an employment decision affecting the employee; or
- Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

While it is not possible to list all circumstances that may be considered to be sexual harassment, some examples of conduct that may violate this policy include, but are not limited to, the following:

- An unwelcome sexual advance, whether it involves physical touching or not;
- Reprisal or making a threat after a negative response is made to a sexual advance;
- Offering employment benefits in exchange for sexual favors;
- Unwelcome leering, whistling, sexual gestures, a suggestive comment, staring, sexual flirtation or proposition;
- Displaying a sexually suggestive object in the workplace or telling/showing sexual jokes, stories, drawings, pictures or gestures;
- Making and/or repeating a sexually-related rumor about another employee;
- Making an inquiry into an employee's sexual experience (s);
- Physical assault or an attempt to commit an assault or intentional physical conduct such as impeding or blocking movement or touching or brushing against another employee's body;
- Making a derogatory comment or joke regarding an individual's sexual orientation or perceived sexual orientation.

It is important to note that:

- This type of conduct amounts to sexual harassment if offensive to a reasonable person.;
- A man or woman may be the harasser of a same or opposite sex victim; the harasser does not have to be the victim's supervisor;
- The victim does not have to be the one to whom the remark or conduct is directed, but may be someone in the same room who overhears and is offended by the comment or behavior.

Procedures to report sexual harassment may be found below under Employees' Rights/Complaint Procedure.

Prohibition of Discriminatory Harassment

Discriminatory Harassment is generally defined as offensive, unwelcome conduct or language based on an individual's race, color, national or ethnic origin, religion, sex, sexual orientation, age, disability, veteran status, genetic information, or any other characteristic protected by law where enduring the offensive conduct becomes a condition of continued employment or creates an environment that a reasonable person would consider intimidating, hostile, offensive, or demeaning.

Discriminatory Harassment may include the following types of misconduct, when such misconduct concerns one or more of the characteristics listed above:

- Verbal abuse, slurs, derogatory comments or insults about, directed at or made in the presence of an individual or group;

- Display or circulation of written materials or pictures that are offensive or degrading;
- Damage to, trespass on or unauthorized use of property, such as spraying or scratching of a motor vehicle, damage or theft of property;
- Physical contact, or threatening language or behavior;
- Other conduct that interferes with an individual's performance; limits participation in College activities; or otherwise creates an intimidating, hostile, or offensive College environment.

Procedures to report a complaint of discriminatory harassment can be found under Employees Rights/Complaint Procedures.

Retaliation Prohibition-Confidentiality

The College prohibits retaliation against anyone for reporting sexual harassment or discriminatory activity, registering a complaint pursuant to this policy, assisting in making a discrimination complaint, or cooperating in an investigation. Any employee who makes a complaint regarding behavior the employee reasonably and in good faith believes is sexual harassment; assists, testifies, or participates in any sexual harassment investigation or proceeding; or who reasonably opposes such conduct in the workplace, will not be adversely affected in the terms and conditions of his or her employment, and will not be discriminated against or discharged for engaging in such activity.

Every employee, whether witness, complainant or alleged harasser, is expected to cooperate fully with every investigation. Confidentiality concerning complaints or investigations is maintained to the greatest extent possible in order to prevent embarrassment, further discrimination or harassment, or retaliation. Concerns of individuals regarding confidentiality of information provided by them will be handled as sensitively as possible, and information shall not be disclosed to others except to the extent necessary to conduct a thorough investigation of the complaint and determine the appropriate resulting action.

Implementation and Administration Supervisors' Responsibilities

Managers and supervisors are in key positions to make an impact in terms of correcting inappropriate behavior in the workplace. Managers and supervisors are responsible for setting the tone for a harassment-free work environment first and foremost by setting an example by their own behavior and by 1) monitoring the workplace to identify subtle harassing conduct or behavior, 2) informing new employees of this policy, 3) periodically reiterating this policy to all subordinate staff, and 4) ensuring that employees receive all mandated sexual harassment training.

Managers and Supervisors must:

- Take all complaints seriously. Do not shrug off, minimize the complaint, or otherwise discourage employees from reporting such complaints;
- Protect the employee(s) complaining of sexual harassment from any form of retaliation;
- Promptly initiate appropriate action, as directed by the Human Resource Department and executive level management, to remedy a harassing situation in a manner that will protect all parties involved and to prevent further harassment from occurring.

Failure to adhere to the above responsibilities will result in appropriate corrective and/or disciplinary action, up to and including dismissal.

Employees' Rights/Complaint Procedures

If you believe, you are the target of sexual or other discriminatory harassment, or if you have witnessed or are otherwise aware of such harassment, you are encouraged to report the incident. You may file a harassment complaint without confronting the offender. Employees who are subject to sexual or discriminatory harassment should immediately report such conduct to their supervisor or, if you prefer, to the Human Resources Department. If your supervisor is the harasser, the behavior may be reported to any other manager or supervisor; or to the Human Resource Department. You may also call anonymously to the Reporting Hotline, at 574.239.1069. All complaints will be promptly investigated.

Director of Human Resources
Title IX Coordinator
Holy Cross College
Notre Dame, IN 46556-0308
D-104A 574-239-8349
hr@hcc-nd.edu

Violations of this policy by a student must be reported in accordance with the Complaint Reporting Options in the Student Handbook.

A complaint will trigger a prompt response in accordance with the procedures outlined below. Individuals may also file a complaint, either separately or concurrently (within the agency's regulatory timeframe), with the United States Equal Employment Opportunity Commission. Holy Cross College will not tolerate retaliation of any sort against an employee for making a good faith complaint.

After an individual reports an incident of harassment or discrimination, the reporter may be asked, but is not required, to complete and sign a written report of the incident.

The College will promptly inform the accused that a complaint has been filed against him/her while preserving confidentiality as described in this policy.

At this point, if the reporter so chooses, and if the accused agrees, the College will attempt informally to resolve the complaint in a manner acceptable to all parties. If the reporter does not wish to pursue an informal resolution of the complaint, or if an acceptable resolution cannot be found, the College will begin a formal investigation of the allegations.

The investigation will, at a minimum, include interviews with all complaining parties, the accused part(y/ies) and witnesses, if any, and completed as quickly as practical. The person officially conducting the investigation will attempt to preserve the confidentiality of all parties involved, so far as is consistent with a thorough investigation, and will keep the complainant and the alleged harasser informed of the progress of the investigation. Upon the conclusion of the investigation, the College will make a determination and communicate the results to the complaining part(y/ies), to the alleged harasser(s), and, as appropriate, to all others directly concerned. If harassment is proven, the College shall take prompt and effective action that shall include:

- Appropriate action against the harasser(s);
- Communication of the action to the complaining party(y/ies);
- Steps to prevent further harassment; and

- If appropriate, action to remedy the complaining part(y/ies)' loss.

Violators of this policy will be subject to appropriate discipline, up to and including immediate termination of employment.

Effective Date: November 2020

Review Date: November 2021

Contact for questions: Director of Human Resources

Action: All employees of the College shall follow the contents of the policy