

Non-Discrimination Procedures

(Adapted from the [University of Maryland Non-Discrimination Policy and Procedures](#))

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I. Policy Statement

St. Mary's College of Maryland (“**SMCM**” or the “**College**”) is fully committed to equal employment and educational opportunities for its employees and students. The College does not discriminate or condone discrimination or harassment in the workplace or academic setting, on the basis of race, color, religion, sex (including pregnancy and parental status), national origin, gender identity/expression, sexual orientation, ethnicity, age, marital status, physical or mental disability, protected veteran status, or any other characteristic protected by law. For more information, see the College’s [Non-Discrimination Policy](#) (the “**Policy**”).

The Assistant Vice President of Equity and Inclusion and/or the Assistant Vice President of Human Resources, or designee are the “College Officials” who shall receive all complaints of discrimination and harassment made pursuant to this Policy.

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Complaints of discrimination based on sex, gender identity or expression, and sexual orientation that do not involve misconduct of a sexual nature will be addressed under these Non-Discrimination Procedures (the Procedures). Complaints of sexual harassment, sexual violence, relationship violence, and stalking will be addressed under the College's Policy Against Sexual Harassment and Grievance Process to Resolve Complaints of Sexual Harassment, as appropriate. These documents are available at <http://www.smcm.edu/title-ix/>.

When the Title IX Coordinator determines that alleged sexual harassment would not constitute a potential violation of the Policy Against Sexual Harassment, based on an initial assessment, the Title IX Coordinator may refer the complaint to these Procedures, as appropriate.

Complaints of discrimination on the basis of disability may be made under these Procedures.

II. [Applicability](#)

All workplace and academic policies, programs and activities of the College are and shall be in conformity with applicable federal and State laws on non-discrimination including, but not limited to: Title VI of the Civil Rights Act of 1964 as amended, Title IX of 1972 Education Amendments, Section 504 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. The College's equal opportunity policy applies to the College's educational policies, admission policies, scholarship and loan programs and athletic programs. The policy applies to all employment decisions, including those affecting recruitment, advertising, job application procedures, hiring, upgrading, training, promotion, transfer, compensation, job assignments, benefits, and/or other terms, conditions, or privileges of employment, provided the individual is qualified, with or without reasonable accommodations, to perform the essential functions of the job.

These Procedures apply to members of the College community, including students, trainees, faculty, staff, and certain third parties (e.g., visitors, volunteers, applicants for admission or employment, vendors, and contractors) while on College property or while participating in College-sponsored activities who either carry out discrimination or are subject to it.

These Procedures apply to discrimination, harassment, or retaliation:

- on College premises, in any College facility, or on College property;
- and/or at any College-sponsored, recognized, or approved program, visit, or activity, regardless of location; and
- that impedes equal access to any College education program or activity or that adversely impacts the education or employment of a member of the College community regardless of where the conduct occurred.

III. Definitions

“Discrimination” is unequal treatment based on a legally protected status that is sufficiently serious to unreasonably interfere with or limit an individual’s opportunity to participate in or benefit from a College program or activity, or that otherwise adversely affects a term or condition of the individual’s employment or education.

“Harassment” is defined as: (a) unwelcome conduct based on a legally protected class, including: race, color, religion, sex, national origin, gender identity/expression, sexual orientation, ethnicity, age, marital status, physical or mental disability, protected veteran status, or any other characteristic protected by law; and (b) that is so severe or pervasive that it interferes with an individuals’ work or academic performance or creates an intimidating, hostile or offensive working environment.

Harassment in violation of the Policy depends on the totality of the circumstances, including the nature, frequency, and duration of the conduct in question, the location and context in which it occurs, and the status of the individuals involved. Harassing behaviors may include, but are not limited to, the following, when based on a person’s protected status:

- conduct, whether verbal, physical, written, graphic, or electronic that threatens, intimidates, offends, belittles, denigrates, or shows an aversion toward an individual or group;
- epithets, slurs, or negative stereotyping, jokes, or nicknames;
- written, printed, or graphic material that contains offensive, denigrating, or demeaning comments, or pictures; and

- the display of offensive, denigrating, or demeaning objects, e-mails, text messages, or cell phone pictures.

“**Personal appearance**” means the outward appearance of any person irrespective of sex with regard to hairstyle, beards, or manner of dress. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed attire when uniformly applied for admittance to a public accommodation or a class of employees for a customary or reasonable business-related purpose.

“**Retaliation**” refers to adverse action that is taken against an individual because they reported discrimination, filed a complaint of discrimination, or participated in an investigation or proceeding concerning a discrimination complaint. Adverse actions may include, but are not limited to, impeding an individual’s academic advancement; terminating, refusing to hire, or refusing to promote an individual; or transferring or assigning an individual to a lesser position in terms of wages, hours, job classification, or job security.

IV. Complaint Procedures

Generally, a complaint filed under other College procedures cannot also be addressed under these Procedures. Students, staff, and faculty must choose between the different complaint processes available to them.

a. Reporting

All members of the community are urged to report any harassment or discrimination that they learn of or experience, to the College’s Assistant Vice President of Equity and Inclusion and/or the Assistant Vice President of Human Resources (the “**College Officials**”). Unless the College is aware of misconduct, it cannot address it.

Employees who experience violations of this Policy are encouraged to promptly file a complaint or bring it directly to the attention of their supervisor or submit a complaint to a College Official. Students are similarly urged to file a complaint or inform an administrator or a College Official if they have been subjected to harassment or discrimination.

The College considers its supervisors and administrators (i.e., employees who are in a position to address misconduct) (collectively “**Supervisory Employees**”) as instrumental in preventing and reporting conduct that may violate this policy. To that end, Supervisory Employees should report harassment that they directly observe or learn of to a College Official.

The College recognizes that there are circumstances where the affected employee or student may be reluctant to have their experience reported. In those instances, the Supervisory Employee is urged to contact a College Official for guidance on handling those requests.

The College recognizes that individuals who experience harassment or discrimination may wish to seek support from a confidential resource. Students seeking support from the Wellness Center can expect that their experiences will not be shared with a College Official and will remain confidential unless and/or until the student contacts a College Official directly.

b. Timeliness

Complaints must be made within ninety (90) business days of the incident(s). The College Official may waive the time limit upon a showing of good cause.

c. Initial Assessment

Written complaints are encouraged, but not required. If a verbal complaint is made, the College Official will prepare a written statement of the allegations and the “**Complainant**” (the person who allegedly experienced discrimination or harassment in violation of the Policy) will be required to acknowledge its accuracy in writing.

The College Official will acknowledge receipt of the complaint by sending a notification letter or contacting the Complainant directly within five (5) business days of receipt. The College Official will then conduct an initial assessment of the complaint to determine whether the complaint should be investigated, and will consider the Complainant’s request that the complaint be investigated or not investigated. The College Official will then notify the complainant whether:

- the complaint is appropriately filed with the College Official and the College has jurisdiction over the alleged conduct and the “**Respondent**” (the person who allegedly engaged in discrimination or harassment);
- the complaint has previously been filed under another College policy;
- the complaint is suitable for alternative resolution; and
- the allegations, if true, would constitute a Policy violation.

If the College Official determines that the complaint is not appropriately filed, the College Official will inform the Complainant of the reason. Reports that do not rise to the level of a potential Policy violation may be referred to other campus resources, such as the [Bias Prevention and Support Team](#).

d. Alternative Dispute Resolution Process

When determined appropriate by the College Official, the Complainant may elect to resolve a complaint through Alternative Dispute Resolution. The purpose of Alternative Dispute Resolution is to resolve the complaint by conference and conciliation.

The College Official will notify and advise supervisors and other administrators, as appropriate, of the complaint and efforts by the parties to proceed with Alternative Dispute Resolution. The College Official shall document efforts to resolve the complaint and whether or not those efforts were successful. When Alternative Dispute Resolution is successful, the College Official shall summarize the resolution in writing, have it signed by the parties, and provide signed copies to the respective parties and supervisors and administrators, as appropriate. The College Official will also monitor implementation of the resolution agreement and/or close the case. When Alternative Dispute Resolution does not succeed within forty-five (45) business days of the date the complaint is filed, the College Official will cease that process and begin the investigation process.

If a Complainant is bargaining unit-eligible individual, a Complainant's request for Alternative Dispute Resolution may also include a request for a delay in the timeline for discipline as outlined in the relevant Memorandum of Understanding. Under these circumstances, management may give notice of additional time to investigate as a result of granting the delay.

e. Investigation

When the Initial Assessment or a failure of the Alternative Dispute Resolution process results in a determination that the College will investigate the complaint, the College Official shall advise the Complainant and Respondent of their rights under this Policy and Procedures, including the following:

- both parties have a right to an impartial investigation;
- both parties have a right to produce relevant documents, witnesses, and other material they would like the investigation to include; and
- both parties may have an advisor of their choice present to provide advice during the investigative interview; however, the advisor may not speak or act on behalf of the party.

i. Standard of Review

In making the determination of whether a Policy violation has occurred, the standard of review is “preponderance of the evidence,” which means it is more likely than not that a Policy violation occurred.

ii. Expectation of Cooperation

Absent good cause, all parties and identified witnesses shall cooperate during the investigation by being available during reasonable business hours to discuss the complaint and by making available any relevant information requested by the investigator.

iii. Investigation Timeline

The College seeks to complete an investigation within sixty (60) business days. The time frames set forth in this Policy may be extended for good cause. Exceptions to this timeframe may vary depending on the complexity of the investigation, access to relevant parties, and the severity and extent of the alleged discrimination.

iv. False Information

Anyone who knowingly files a false complaint under this Policy or who knowingly provides false information to the College during an investigation will be subject to appropriate disciplinary action.

v. Appointment of Investigators

The College Official will assign one or more investigators who will conduct an adequate, reliable, and impartial investigation of the complaint. The College Official may serve as an investigator. The investigator(s) may be employees of the College or external investigator(s) engaged to assist the College in its fact-gathering. The College Official may appoint a team of two investigators, which may include the pairing of an external investigator with a College employee. Any investigator chosen to conduct the Investigation must be impartial and free of any conflict of interest.

A conflict of interest may arise if the investigator is related to, has a friendship with, or otherwise has had interactions with one of the parties or witnesses that may compromise the fairness or impartiality of the investigation. In the rare situation in which an actual or perceived conflict of interest arises from the involvement of an investigator, that conflict must be disclosed to all parties and any potential or actual conflict must be appropriately addressed.

If a Complainant or Respondent has reason to believe that an investigator for the case has a conflict of interest, the party should notify the College Official immediately via email and provide the reasons why the party believes there is a conflict of interest. Likewise, an investigator must promptly disclose any potential conflict of interest the investigator might have in a particular case. The College Official will review the information provided and make a determination regarding whether the investigator should be replaced with another investigator.

vi. Investigative Interviews

The investigator(s) will interview the Complainant and the Respondent and any other available relevant witnesses, and review available relevant documents.

After each investigative interview, the investigator(s) shall prepare a written summary of the interview and shall email a copy of the summary of the interview to the party or witness who was interviewed as soon as practicable after the interview is conducted. The party or witness shall have two (2) business days, from the date upon which the investigator(s) sent the summary of the interview, to provide any comments or additional information via email to the investigator(s).

If the party or witness does not provide comments or additional information to the investigator(s) within this time period, the summary of the interview will be included in the Investigation Report and Findings, as defined below, without comment from the party or witness. If the party or witness provides comments or additional information to the investigator(s) within this time period, the investigator(s) shall include the comments and additional information in the Investigation Report and Findings, and may, in the investigator(s)' discretion, conduct another interview of the party or witness.

vii. Preliminary Investigation Report and Findings

The investigators shall complete a preliminary written report of its investigation, including a summary of the allegations, evidence reviewed and witness statements, findings of material fact and an analysis of those facts, and a conclusion stating whether the Policy was violated, based on the preponderance of evidence standard (the "**Preliminary Report**"). The College Official will review the Preliminary Report and findings for consistency with College policy and practice, and the College's legal counsel will review the Preliminary Report for legal sufficiency.

The College will send the Preliminary Report to each party. Each party will have ten (10) days to submit a response, which the investigators will consider prior to the completion of the final

investigative report. The investigator(s) will carefully review all of the information submitted by the parties in response to the Preliminary Report. The Investigator(s) may conduct additional interviews to the extent reasonable, based on the relevancy and materiality of the statement of information known by a witness.

viii. Final Investigative Report and Findings

After the investigator(s) review the responses to the Preliminary Report and conduct any additional investigation, the investigator(s) will prepare the final investigative report and findings (the “**Final Report**”). The College Official will review the Final Report and findings for consistency with College policy and practice, and the College’s legal counsel will review the Final Report for legal sufficiency.

The College Official will then issue a Notice of Findings and/or provide a copy of the Final Report to the parties and to the appropriate supervisors or department/unit heads, or the Student Conduct Officer, depending on the status of the parties. Copies of the Final Report may be redacted to comply with applicable law.

V. Appeal

The Complainant and/or Respondent may appeal the investigation finding within five (5) business days of the date of receipt of the Notice of Findings by submitting a written statement of their intent to appeal, and the stated grounds, to the College Official via email.

The scope of the appeal is limited to the grounds set forth below. Mere dissatisfaction with the finding is not a valid basis for appeal. If an appeal is received by the College Official, the other party will be notified and given five (5) business days from the date of receipt of that notice to respond by submitting a written statement to College Official. Appeals filed by more than one party will be considered together in one appeal review process. All appeal documents submitted by a party will be shared with the other party.

If neither party submits an appeal, the decision will be considered final five (5) business days after the last date either party received the Notice of Findings. Appeals submitted after five (5) business days shall be denied, except upon a showing of good cause.

a. Grounds for Appeal

Either party may appeal the Finding only on the following grounds:

- **Substantial Procedural Error:** Procedural errors or errors in interpretation of College policy were so substantial as to effectively deny a Complainant or Respondent notice or a fair opportunity to be heard.
- **New Evidence:** New relevant, material evidence that a reasonably diligent person could not have discovered prior to the issuance of the Notice of Findings has become available.

b. Review

The appealing party has the burden of proof to overturn the finding. The standard of proof is preponderance of the evidence. Appeals are not intended to allow for a review of the entire investigation, with the exception of new evidence, as referenced above. The appellate review will be based on the written record; parties are not entitled to a hearing or meeting with the reviewing administrator or designee.

Appeal officers may be members of the College's Executive Council or may be external personnel with specific training and experience, appointed for this purpose. Appeal officers must be unbiased and without any conflicts of interest (as described above in section (IV)(E)(5)).

c. Appeal Outcome

Upon receipt of the appeal and response, the College Official will forward them to the appeal officer. Within five (5) business days, the appeal officer will issue a written determination stating whether the Appeal was granted or denied, including a summary of its rationale (the "**Appeal Outcome**"). The Appeal Outcome shall either:

- affirm the finding,
- overturn and reverse the finding, or
- send the case back to investigator(s) with specific directions to reconsider the finding.

The decision of the appeal officer as set forth in the Appeal Outcome shall be final. The appeal officer shall forward a copy of the Appeal Outcome to the College Official via email. The College Official will forward a copy of the Appeal Outcome to the parties and respective supervisor/unit head/department chair/Student Conduct Officer as soon as possible.

VI. Recommendations for Corrective Action

The College Official may provide the appropriate Vice President, supervisor, and department chair with a recommendation for corrective action. The final decision for determining and implementing any necessary corrective action shall remain the responsibility of the appropriate Vice President or designee. The Vice President or designee will notify the College Official within ten (10) business days of any corrective action that has been implemented.

The College Official is responsible for monitoring efforts to ensure that any ongoing violations of the Policy cease. In the event corrective action requires specific anti-discrimination training not readily available to the parties, the College Official will work with the supervisor and/or department/unit head to ensure training occurs as soon as feasible.

VII. Disciplinary Action

a. Students

With respect to Student Respondents, the Student Conduct Officer, in accordance with the provisions of the Code of Student Conduct, is responsible for imposing disciplinary action. See the [Code of Student Conduct](#) for more information on disciplinary sanctions.

The College Official may consult with the Student Conduct Officer when appropriate to develop and provide other remedies. These remedies will identify reasonable long-term or permanent remedies to address the effects of the conduct on the Complainant, restore the Complainant's safety and well-being, and maximize the Complainant's educational and employment opportunities. Remedies may also be identified to address the effects of the conduct on the College community.

Students may appeal discipline imposed as a result of a violation of these Procedures in accordance with the Code of Student Conduct.

b. Staff

With respect to Staff Respondents, any disciplinary action or corrective measures will be imposed by the appropriate supervisor and unit head, in consultation with the Assistant Vice President of Human Resources and/or the College Official, and other relevant administrators, as needed. Information about disciplinary action may be found in the [Employee Handbook](#) (for non-bargaining unit employees) and [Memorandum of Understanding](#) (for bargaining-unit employees).

Staff may grieve discipline imposed as a result of a violation of this Policy in accordance with their applicable grievance rights.

c. Faculty

With respect to Faculty Respondents, disciplinary action or corrective measures will be imposed by the appropriate supervisor and unit head, in consultation with the Provost/Dean of Faculty, the College Official, and other relevant administrators, as needed.

Faculty may submit a grievance regarding any discipline imposed as a result of a violation of this Policy in accordance with their respective grievance rights, as described in the Employee Handbook and/or Faculty Bylaws.

d. Records Retention

The College Official will maintain the records relating to the investigation. The respective unit responsible for issuing any discipline will maintain any disciplinary records in accordance with the University's records retention schedule. The respective unit shall also provide a copy of the disciplinary records to the College Official.

The Assistant Vice President of Equity and Inclusion will maintain the records on behalf of the Division of Inclusive Diversity, Equity, Access, and Accountability for a period of seven (7) years.

VIII. External Government Agencies that Address Discrimination Complaints

Filing an employment discrimination complaint under this Policy or an alternative campus procedure does not preclude an employee from filing a complaint with the Maryland Commission on Civil Rights, the Equal Employment Opportunity Commission, or the Office for Civil Rights of the U.S. Department of Education.

Complainants who wish to file discrimination complaints that are not connected with the official functions of the College or not falling within the scope of this Policy, will be referred to appropriate College, County, State, or Federal agencies by the College Official.

Office for Civil Rights U.S. Department of Education

Philadelphia Office (Regional Office for Maryland)

The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323

Phone: 215-656-8541

TDD: 800-877-8339

Email: OCR.Philadelphia@ed.gov

Website: <http://www2.ed.gov/about/offices/list/ocr/index.html>

Maryland Commission on Civil Rights

Phone: 410-767-8600

Website: <http://mccr.maryland.gov/>

Equal Employment Opportunity Commission

Phone: 800-669-4000

TTY: 800-669-6820

Website: <https://egov.eeoc.gov/eas/>

It is important to note that in order to protect certain legal rights and remedies, Complainants must comply with certain time limits and deadlines. Affected persons should contact the relevant agencies listed above to verify time limits for filing. Failure to meet required deadlines may result in a loss of rights to seek a legal remedy.