

## NONDISCRIMINATION POLICY AND GRIEVANCE PROCEDURE

### Policy

Goucher College prohibits unlawful discrimination and harassment against employees, students, and applicants for admission or employment on the basis of race, color, national origin, ethnicity, sexual orientation, gender identity, religion, sex, age, or disability.

### Scope of Policy

The college requires that all employees, students, college contractors, and campus visitors comply with this policy.

### Definitions

**Discrimination.** Discrimination under this policy is defined as conduct directed at an individual because of his/her race, color, national origin, ethnicity, sexual orientation, gender identity, religion, sex, age (except when sex or age is a bona fide qualification) or disability (when the person is otherwise qualified) that subjects the individual to different treatment so as to adversely affect the individual's employment or educational experience at the college. Discrimination includes retaliation against an individual for reporting instances of discrimination or harassment under this policy.

**Harassment.** Harassment is conduct directed at an individual because of his/her race, color, national origin, ethnicity, sexual orientation, gender identity, religion, sex, age, or disability that has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive academic or work environment on the Goucher campus. Harassment may include, but is not limited to, use of racial, ethnic, sexual, religious, or personal slurs or epithets, or other threatening, intimidating, hostile or abusive treatment directed at a person because of characteristics protected by this policy.

### Course Materials and Content

Complaints under this policy that course materials, projects, or classroom discussions are offensive because they discriminate against individuals on an impermissible basis and/or create a hostile environment in the classroom are to be evaluated with due regard to principles of academic freedom. Consistent with those principles, course content and teaching methods remain the province of individual faculty members. However, course content or teaching methods that focus attention on characteristics protected by this policy which are not germane to the academic discussion, or on such characteristics of individual students, faculty, or staff, are inappropriate and may be a violation of this policy.

## Advisors

Both parties in the informal resolution process or the formal complaint process may have an advisor present throughout that process. The advisor may not be a practicing attorney and must be a member of the college community (faculty, staff, or student).

## Confidentiality

Goucher College recognizes that confidentiality is important in matters involving complaints of discrimination. All persons responsible for implementing this policy will respect the confidentiality and privacy of the individuals involved, to the extent reasonably possible. Those individuals reporting, accused of, or otherwise involved in a discrimination complaint are also required to keep the matter as confidential as is reasonably possible. Absolute confidentiality may not be maintained in all circumstances, including when the college is required to disclose information in response to legal process or when the college's need to protect the rights of others must outweigh confidentiality concerns.

Often a person reporting or otherwise concerned about discrimination wants a discussion to be confidential or "off the record." Confidential discussions about discrimination may be available from persons who, by law, have special professional status, such as the college chaplain and counselors at the Student Health and Counseling Center. The level of confidentiality depends on what legal protections are held by the specific persons receiving the information, and should be addressed with them before specific facts are disclosed. Faculty, staff, and Resident Assistants may be required to disclose information concerning discrimination that is not personally identifiable, or, if a member of the college community is at risk, to disclose personally identifiable information to the appropriate administrators.

## Informal Resolution Process

When an incident arises in which a person feels that he or she has been subjected to discrimination or harassment as defined in this policy, the situation should be addressed as soon as possible. In many cases, informal actions can be taken that will effectively stop the misconduct. As a first step, the person should make it clear to the offender that he or she does not want any further incidents to occur. If this does not stop the misconduct, or if the person does not feel that he or she can confront the offender or needs help in the process, any one of the following administrators may be contacted:

- Academic Dean or Associate Academic Dean, when the offender is a faculty member
- Director of Human Resources, when the offender is a staff member

- Dean of Students, when the offender is a student
- Director of Public Safety
- Special Assistant to the President

The administrator can provide the person with support and advice on how to confront the accused and how to discourage any further misconduct. At the person's request, the administrator may also intervene directly with the accused. In such cases, the administrator will provide the accused an opportunity to respond to the allegation, then after discussions with both parties may attempt to mediate or suggest another person to mediate a solution, which may result in a written agreement between the parties. In appropriate cases, disciplinary or other remedial action may also result, but such action may only be taken by the Academic Dean, the Dean of Students or the Director of Human Resources.

The administrator will make every effort to resolve informal complaints in a timely manner. At any time either party may end the informal process and begin the formal complaint procedure. The formal procedure may also be implemented if the informal complaint procedure has been exhausted without resolution satisfactory to the complainant.

### Formal Complaint Procedure

#### A. Applicability

This complaint procedure may be utilized by any Goucher employee or currently enrolled student who believes he or she has been discriminated against or subject to harassment in employment or in access to an educational program or activity on the basis of the complainant's race, color, national origin, ethnicity, sexual orientation, gender identity, religion, sex, age, or disability. This procedure is not available to applicants for admission or employment at the college or to terminated employees or former students. It is also not available for certain complaints for which other procedures exist, as described below.

#### B. Alternative Procedures for Complaints of Harassment and Discrimination

1. Complaints against students. A student or student group that harasses another member of the Goucher community may be subject to disciplinary action under the Student Code of Conduct. Complaints of harassment or discrimination against a student or student group shall be addressed under the procedures of the Student Code of Conduct and may not be brought under this procedure.
2. Complaints against campus visitors or contractors. Complaints of discrimination or harassment against campus visitors or contractors should be reported to the Director of Public Safety, who shall investigate the complaint and take appropriate action.

3. Complaints of sexual misconduct. Complaints of sexual misconduct shall be addressed under the Sexual Misconduct Policy and may not be brought under this procedure.
4. Faculty grievances. Faculty grievances against other faculty members or the administration that involve alleged violations of this policy shall be addressed under the Faculty Grievance Procedure and may not be brought under this procedure.
5. Complaints against individuals at internship sites. Complaints against individuals at internship sites should be reported to the Assistant Director for Internships, who, in consultation with the Director of Career Development, shall investigate the complaint and take appropriate action.
6. Complaints against individuals at international study sites. Complaints against individuals at international study sites should be reported to the resident director or to the site's international student officer, and to the Associate Director of International Studies, who, in consultation with the Director of International Studies, shall investigate the complaint and take appropriate action.

### C. Complaint Procedure

Prompt reporting of a complaint of discrimination or harassment as defined in this policy is strongly encouraged, as it facilitates a faster resolution. Ordinarily, formal complaints of discrimination or harassment must be filed under these procedures within one year of the date when the incident is alleged to have occurred. However, there may be instances where the person making a complaint is reluctant to report the alleged misconduct within one year. The administrator with whom the complaint is filed is authorized to process a complaint after the one-year period when such administrator is satisfied as to the adequacy of the complainant's written explanation of the delay in reporting the complaint.

There may be situations or circumstances when a member of the college community is subjected to discrimination or harassment but does not wish to come forward or pursue a complaint, or when a person observes such conduct directed at another member of the college community. Goucher College will do all it can to respect the victim's wishes, but may proceed to address allegations of discrimination or harassment if and when college administrators become aware of such allegations, especially where the circumstances present a threat of harm or injury to the victim or other members of the community.

1. **Complaint Panel:** Formal complaints of violations of this policy will be received and decided by a three-person panel. Two panel members and one alternate member shall be appointed for two-year terms by the college

president. In addition to the two appointed members, each panel shall include one of the following administrators:

- the Academic Dean, when the accused is a faculty member;
- the Director of Human Resources, when the accused is a staff member.

The alternate member shall serve on a panel when one of the appointed members is unavailable or must be recused from a particular case due to conflict of interest. All panel decisions shall be made by majority vote.

2. Filing a complaint: All formal complaints under this policy must be made in writing by the complainant, and describe the particulars of the alleged misconduct. Complaints may be filed with any of the appropriate panel members or with the Special Assistant to the President
3. Notice to accused: The person accused of harassment or discrimination is notified in writing and in person (if feasible) of the complaint and investigation, and is provided with a copy of the written complaint.
4. Investigation: The panel shall promptly appoint two individuals to conduct an investigation of the complaint. At least one investigator shall be a member of the faculty when the complaint is against a faculty member, or of the staff when the complaint is against a staff member. To the extent possible, no investigator appointed by the panel shall be a direct supervisee of any panel member.

The complainant and the accused shall each be interviewed by the two investigators and may have an advisor with them for the meeting(s). Both parties may present documents, the names of witnesses, and other evidence to the investigators. The accused may not be present for the complainant's interview unless the complainant consents, and vice versa. The investigators, either alone or together, may also interview other witnesses.

5. Report and Recommendation: In a timely manner, but barring special circumstances no later than one month from the date the complaint is filed, the investigators shall make a report with recommendations to the panel. The report shall describe the investigation and all relevant evidence obtained in the investigation, provide support for the conclusions drawn by the investigators, and make recommendations for sanctions or other remedial action as appropriate.

The parties shall be provided a copy of the investigators' report with recommendations. However, a redacted copy or summary of the report will be provided when necessary to protect privileged information or the safety or well-being of individuals involved in the investigation, or to comply with the provisions of the Family Educational Rights and Privacy Act (FERPA).

6. Response: Both parties shall be given the opportunity to respond to the report and recommendation before the panel. Such response may be in writing or in person, and shall be made within the timeframe established by the panel.
7. Decision: The panel shall review the investigators' report and recommendation, and any responses made by the parties. The panel will then issue a written decision that includes the imposition of sanctions, if appropriate. In determining sanctions, the panel will take into account any previous violations of this policy.

The parties shall be provided a copy of the written decision. However, a redacted copy or summary of the decision will be provided when necessary to protect privileged information or the safety or well-being of individuals involved in the investigation, or to comply with the provisions of the Family Educational Rights and Privacy Act (FERPA).

8. Sanctions: If the panel determines that the accused has violated this policy, the appropriate administrator (Academic Dean or Director of Human Resources) shall implement any sanctions imposed by the panel. When the accused is an employee other than a faculty member, the Director of Human Resources shall institute sanctions together with the accused's supervisor and/or department head. Sanctions may include, but are not limited to:
  - a. for faculty violations an oral warning, a written warning, a letter of reprimand, mandatory attendance of an educational program on discrimination, mandatory referral for psychological assessment and compliance with any resulting treatment plan, restriction of responsibilities, reassignment, denial of salary increase, suspension without pay, or dismissal;
  - b. for violations by employees other than faculty members an oral warning, a written warning, a letter of reprimand, mandatory attendance of an educational program on discrimination, mandatory referral for psychological assessment and compliance with any resulting treatment plan, restriction of responsibilities, reassignment or transfer to another department, denial of salary increase, suspension without pay, final written warning, or termination.

The sanctions described in this policy are not exclusive of and may be in addition to other actions taken or sanctions imposed by outside authorities.

9. Appeals: Either party may appeal the panel's decision to the college president. Appeals may be based only on the grounds that proper procedure was violated and the procedural error caused material prejudice to the complainant's or accused's case, or that new and relevant evidence has arisen

that was not reasonably available at the time of the hearing and that would have a material effect upon the outcome of the case.

Appeals must be submitted in writing within seven business days after the panel's decision is issued, and must state the specific reason(s) for the appeal. The non-appealing party shall be provided a copy of the appeal, and shall be given the opportunity to submit a written response within five business days of receiving the appeal.

The president may affirm, reverse, or modify the decision of the panel, or may remand the decision to the panel for further consideration. The president's decision shall be in writing, and shall be issued within 15 business days of the date the appeal is submitted.

This is the exclusive process for appeal in cases of discrimination or harassment. No administrative processes otherwise available to faculty or staff may be used for appeal of a decision brought under this policy.

#### D. Protection for Complainants Against Retaliation

Threats, intimidation, and retaliation against a complainant for bringing a complaint under this policy are violations of this policy and thus may be grounds for disciplinary action.

The college will take steps to protect students and employees from reprisal by the accused. Such protection will need to be appropriate to the individual's circumstances. For students, this may include the opportunity to change a residence hall assignment, drop a course, transfer to another section of a course, complete a course independently, have a pass/fail option, have a third party grade work, have another person assigned to write recommendations or references on behalf of the student, have another person assigned as an advisor to the student or change a work assignment. For employees, such protection may include having a third party conduct the annual evaluation, changing a work assignment, or transferring to another department, if feasible.

#### E. False Charges

The purpose of this policy is to promote and maintain an environment at Goucher College that is free from discrimination. Any member of the college community who believes that he or she has been subjected to discrimination or harassment that violates this policy is encouraged to use the procedures provided in this policy, not only for the benefit and protection of that individual but ultimately of the entire college community. However, false charges of discrimination and harassment undermine the purpose and effectiveness of this policy. Accordingly, persons who knowingly make false charges of discrimination or harassment may be subject to disciplinary action. Allegations of false charges must be reported

within six months of the date the complaint was brought. Such allegations may be reported to the administrator handling the complaint, who shall investigate the allegations and take any appropriate action. The failure of a complaint to result in a finding of discrimination or harassment is not alone evidence that the charges were knowingly false.