

PROCEDURE # VII-012 (Page 1 of 9)
TITLE *Non-Discrimination and Complaint Procedure (Including Sexual Harassment)*

TYPE Student Services

RATIONALE

APPROVED October 16, 2014

PROCEDURE

Jefferson College does not discriminate against students enrolled in the College on the basis of their age, ancestry, color, creed, disability, genetic information, marital status, national origin, race, religion, sex, gender identity or expression, sexual orientation, or veteran status (the “Protected Categories”) in admission or access to, or treatment in, its educational or student programs and activities. Similarly, the College does not permit the occurrence of discrimination/harassment on the basis of any of the Protected Categories.

The College has established this complaint procedure for addressing complaints by a student alleging that conduct or an action, policy, procedure, or practice constitutes discrimination/harassment on the basis of one or more of the Protected Categories.

Definitions

- **“Complaint”** means an allegation of conduct or of action, policy, procedure or practice which would constitute discrimination/harassment on the basis of one or more of the Protected Categories.
- **“Compliance Coordinator”** means the College's Compliance Coordinator for students. This individual is the Director of Student Compliance and Title IX Coordinator, Jefferson College, 1000 Viking Drive, Hillsboro, MO 63050 (636) 481-3258/797-3000, ext. 3258.
- **“College”** means Jefferson College.
- **“Day”** means a school day, which is a day in which school is in session.
- **“Discrimination/Harassment”** means discrimination and/or harassment on the basis of one or more of the Protected Categories. For purposes of discrimination, the College (or its authorized employee) must be the alleged actor. For purposes of harassment, the alleged actor may be the College, an employee of the College, a student, or a visitor to the College’s facilities.
- **“Employee”/“School Personnel”** means, for purposes of this regulation, board members, College employees, agents, volunteers, contractors, or persons subject to the supervision and control of the College.
- **“Student”** means a student enrolled in the College. A parent/legal guardian is permitted to make filings and take action under this policy on behalf of students under the age of eighteen (18).

PROCEDURE # VII-012 (Page 2 of 9)
TITLE *Non-Discrimination and Complaint Procedure (Including Sexual Harassment)*

Prohibited Discrimination

For purposes of this regulation, discrimination on the basis of one or more of the Protected Categories means that the College has treated a student in a discriminatory manner on the basis of one or more of the Protected Categories when compared to similarly situated students. In general, federal and state laws prohibit such discrimination on the basis of enrollment, facility access, counseling/guidance materials/tests/practices, vocational education, physical education, athletics, rules and regulations, pregnancy, health services, and College-sponsored extracurricular activities.

Prohibited Harassment

For purposes of this regulation, harassment on the basis of one or more of the Protected Categories consists of verbal or physical conduct relating to a student's age, ancestry, color, creed, disability, genetic information, marital status, national origin, race, religion, sex, gender identity or expression, sexual orientation, or veteran status, when:

1. The harassing conduct is so severe, persistent or pervasive that it creates an intimidating, threatening, or abusive educational environment;
2. The harassing conduct has the power or effect of substantially or unreasonably interfering with an individual's educational performance; or
3. The harassing conduct otherwise substantially and adversely affects an individual's educational opportunities.

Examples of conduct which may lead to or constitute discrimination/harassment on the basis of one or more of the Protected Categories include the following:

- Graffiti containing offensive language which is derogatory to others because of their membership in a Protected Category;
- Jokes, name-calling, or rumors based upon an individual's membership in a Protected Category;
- Slurs, negative stereotypes, and hostile acts which are based upon another's membership in a Protected Category;
- Written or graphic material containing comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of a Protected Category;
- A physical act of aggression or assault upon another because of, or in a manner reasonably related to, such person's membership in a Protected Category;

PROCEDURE # VII-012 (Page 3 of 9)
TITLE *Non-Discrimination and Complaint Procedure (Including Sexual Harassment)*

- Other kinds of aggressive conduct such as theft or damage to property which is motivated by a person's membership in a Protected Category;
- Unwelcome sexual touching, advances, physical, sexual or dating relationships between an employee and a student, requests for sexual favors, or other verbal or physical conduct of a sexual nature.

Intake, Investigation, and Resolution of Student Complaints

1. Intake of Complaints

- a. Any student who believes he or she has been the victim of discrimination/harassment based on one or more of the Protected Categories by a student, employee, or other personnel of the College, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extra-curricular activities under the auspices of the College, is encouraged to immediately report the alleged acts to any College administrator, or the College's Compliance Coordinator (whose contact information appears above in this regulation).
- b. To assist the College in addressing the matter promptly and thoroughly, a student reporting discrimination/harassment on the basis of one or more of the Protected Categories is encouraged to provide a written explanation that specifically details the student's concern. This regulation contains an easily understood form that may be used for this purpose. However, a student's refusal to make a report in writing does not relieve the College of the obligation to investigate a report.
- c. Before making the report, a student who believes that he or she has been subjected to discrimination/harassment on the basis of one or more of the Protected Categories is not required to confront the individual who is the subject of the student's concern.
- d. Any College supervisor or administrator who receives a report, orally or in writing, regarding discrimination/harassment on the basis of one or more of the Protected Categories must notify the Compliance Coordinator within one (1) school day or within a reasonable time thereafter for good cause.

2. Investigation of Complaints

The College desires to promptly address complaints alleging a violation of this regulation. Accordingly, the College has established a protocol for handling such complaints. This protocol sets forth specific deadlines within which various phases of the process are intended to occur. These deadlines are subject to extension by the College for good cause or if extenuating circumstances exist. Regardless, the College remains committed to a prompt investigation and resolution of submitted complaints.

PROCEDURE # VII-012 (Page 4 of 9)
TITLE *Non-Discrimination and Complaint Procedure (Including Sexual Harassment)*

- a. Upon receipt of a report of discrimination/harassment on the basis of one or more of the Protected Categories, the Compliance Coordinator may choose to investigate the complaint or may, alternatively, appoint an investigator from the College to investigate the complaint.
- b. The investigation shall be conducted in the manner deemed appropriate by the Compliance Coordinator. The College desires to investigate complaints in a prompt and thorough manner. The following timeframes will apply:
 - 1) The investigation must be commenced within two (2) school days of the Compliance Coordinator's receipt of the report of discrimination/harassment on the basis of one or more of the Protected Categories.
 - 2) Absent extenuating circumstances, investigations will be completed within ten (10) school days after the investigation commences. Changes or additions to a complaint will typically require an extension of time to ensure that the complaint is properly investigated. Similarly, scheduling issues and the unavailability of witness or relevant documents may also necessitate an extension of time.
- c. Investigation files shall be maintained separately from student educational files and employee personnel files.
- d. Confidentiality of personally identifiable student information obtained during investigations will be maintained in accordance with federal and state law. The College desires to protect the identity of complainants for as long of a time period as it is able to do so in accordance with law.

3. Resolution of Complaints

- a. At the conclusion of the investigation, the completed investigation report shall be provided to the appropriate administrative official who is charged with making the determination with respect to the validity of the complaint. Where he/she deems it appropriate, the Compliance Coordinator himself/herself is permitted to make this determination.
- b. This administrative official will review the investigation report and make a determination regarding the validity of the complaint within five (5) school days after submission of the report. This administrative official may, alternatively, determine that further investigation is necessary and, as such, refer the matter for additional investigation. When such additional investigatory steps are completed, the matter shall once again be submitted to this administrative official for decision.
- d. One of the following determinations will typically be made with respect to the complaint:

PROCEDURE # VII-012 (Page 5 of 9)
TITLE *Non-Discrimination and Complaint Procedure (Including Sexual Harassment)*

- 1) Unsubstantiated;
 - 2) Unable to substantiate OR indeterminate OR incapable of determination;
or
 - 3) Substantiated prohibited conduct (in whole or in part).
- d. Regardless of the determination made with respect to the complaint, the College may take appropriate action to minimize the opportunity for future issues or concerns to arise.
- e. Notification of Determination Regarding Complaint:
- 1) Within five (5) school days after the determination has been made regarding the complaint, notice of the determination will be mailed or given to the complainant.
 - 2) If a complainant disagrees with the determination made regarding discrimination/harassment on the basis of one or more of the Protected Categories, the complainant may appeal the decision to the Compliance Coordinator (or to the Board of Trustees, if the Compliance Coordinator has made the determination that is being challenged). The complainant must submit a written appeal to the Compliance Coordinator no later than five (5) school days after the notification to the complainant has occurred. The written appeal should specifically state what is being appealed, the reason for the appeal, and the action that is desired.
 - 3) When an appeal has been made, the appeal will be processed as follows:
 - (a) The appeal will be considered by one of the following:
 - (i) If a College official other than the Compliance Coordinator made the determination, the Compliance Coordinator will review the determination within five (5) school days or within a reasonable time thereafter for good cause. If the Compliance Coordinator made the determination as to the validity of the complaint, the Compliance Coordinator will send the appeal to the Board of Trustees, which will review the determination at its next regularly scheduled meeting (or, at its option, at any meeting within thirty (30) days after the appeal is received).
 - (ii) As an alternative, either the Compliance Coordinator or the Board of Trustees may appoint a “Determination Review Officer” to review the determination. This person will review the determination within a reasonable period after appointment but not later than thirty (30) days unless additional time is, in his/her judgment, necessary for a fair review.

PROCEDURE # VII-012 (Page 6 of 9)
TITLE *Non-Discrimination and Complaint Procedure (Including Sexual Harassment)*

- (b) The reviewer will examine the documentation relating to the matter – meaning the written appeal, complaint, investigation report, and determination. This provision does not grant the complainant the right to an in-person hearing or other appearance before the reviewer. The reviewer may, in the reviewer’s sole judgment and discretion, contact any individual to seek additional information if the reviewer deems such information necessary to reach a decision upon the appeal.
 - (c) Regardless of who reviews the matter, the complainant will be advised in writing of the outcome of the review within seven (7) school days after the completion of the review.
- f. If a complaint is *substantiated* (in whole or in part), and the offender is a student, disciplinary and/or other remedial action will be taken in accordance with Board-established student discipline regulations and/or in accordance with federal and state law. If a complaint is *substantiated* (in whole or in part), and the offender is an employee, disciplinary and/or remedial action may be taken, up to and including the termination of employment. If the offender is not an employee of the College, the College will take appropriate action within the scope of its legal authority to eliminate the discrimination/harassment.
- g. The ultimate decision as to what action to take to remedy the matter is within the discretion of the College, in accordance with law. The filing of an appeal to challenge the determination does not stay or postpone the College’s ability to initiate disciplinary or remedial action.
- h. There will be no retaliation against or adverse treatment of an employee who uses this procedure to resolve a concern when such complaint has been brought in the reasonable, good faith belief that the employee has been subjected to discrimination/harassment on the basis of a Protected Category.

Enforcement

Responsibility of Supervisors and Administrators: Each supervisor or administrator serves a vital role in maintaining an educational environment free from discrimination/harassment on the basis of one or more of the Protected Categories. In accordance with that responsibility, each supervisor or administrator shall take appropriate actions to enforce the College’s anti-discrimination/harassment policies and regulations.

1. Any supervisor/administrator who receives a report, orally or in writing, regarding discrimination/harassment relating to a student should notify the College’s Compliance Coordinator within one (1) school day or a reasonable time thereafter for good cause.

PROCEDURE # *VII-012 (Page 7 of 9)*
TITLE *Non-Discrimination and Complaint Procedure (Including Sexual Harassment)*

2. The supervisor/administrator shall implement appropriate remedial and/or disciplinary action, as necessary and as directed.
3. Failure to implement these responsibilities in an appropriate and satisfactory manner is cause for disciplinary action up to and including termination of employment.
4. Each administrator, or designee, shall take appropriate actions to enforce the College's anti-discrimination/harassment rules, including but not limited to the following:
 - a. Vulgar or offensive graffiti shall be removed from the premises.
 - b. The College shall provide instruction to employees on the College's anti-discrimination/harassment rules as needed.
 - c. Students shall be provided a copy of this regulation yearly.

Responsibility of Staff

College staff members serve a vital role in maintaining an educational environment free from discrimination/harassment on the basis of one or more of the Protected Categories. In accordance with that responsibility, each supervisor or administrator shall take appropriate actions to enforce the College's anti-discrimination/harassment policies and regulations.

1. Upon receiving a report from a student who states that he/she has been, or is being, subjected to discrimination/harassment on the basis of a Protected Category, or from a student who is aware that another student is experiencing such an issue, a staff member must immediately notify a College administrator or the Compliance Coordinator.
2. Failure to report as directed above is cause for disciplinary action up to and including termination of employment.
3. Employees are expected to implement and enforce all directives from an administrator or the Compliance Coordinator regarding the resolution of a matter involving discrimination/harassment on the basis of one or more of the Protected Categories.

Consequences and Discipline

1. Any student who engages in discrimination/harassment on the basis of one or more of the Protected Categories while on College property or while participating in College activities, regardless of location, will be subject to disciplinary and/or remedial action. Specific disciplinary measures may be taken consistent with College student discipline rules/regulations and in accordance with the administration's professional judgment.
2. Any student who alleges or otherwise brings a false charge of discrimination/harassment on the basis of one or more of the Protected Categories shall receive appropriate

PROCEDURE # *VII-012 (Page 8 of 9)*
TITLE *Non-Discrimination and Complaint Procedure (Including Sexual Harassment)*

discipline. The term “false charge” means an allegation that is brought in bad faith (i.e., without the good faith belief that one has been subjected to such discrimination/harassment).

3. The effectiveness of the College’s prohibited discrimination/harassment policies and regulations are dependent upon the receipt of truthful information. Thus, students are expected to be truthful throughout the intake, investigation, and resolution process.

Right to File External Complaint

The procedures set forth in this regulation shall not eliminate the right of a student to file, at any time, a complaint alleging discrimination/harassment on the basis of sex, gender, race, color, national origin, or disability with the United States Department of Education’s Office for Civil Rights, Region VII, 601 East 12th Street, Room 248, Kansas City, MO 64106; telephone (816) 426-7277. The Office for Civil Rights does not investigate complaints regarding discrimination/harassment on the basis of religion or veteran status. Complaints regarding veteran status should be directed the Veteran’s Employment and Training Service, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-1325, Washington, D.C. 20210. Complaints regarding religion should be directed to the College’s Compliance Coordinator for students designated above.

Complaint Form

The College has developed a sample complaint form, which may be used to submit a complaint under this regulation. The College strongly encourages, but does not mandate, the use of this form. This form may be obtained in the office of the Compliance Coordinator.

BOARD MONITORING

PROCEDURE # VII-012 (Page 9 of 9)
TITLE Non-Discrimination and Complaint Procedure (Including Sexual Harassment)

**Prohibited Discrimination/Harassment Complaint Form
Including Sexual Harassment**

Today's Date: _____

Student's Name (please print): _____

Home Address: _____

Home Telephone: _____

Please describe the nature of your complaint (attach additional sheet if necessary):

What would you like the outcome to be with respect to your complaint?

Signature: _____

Date: _____