

## Harassment Policy

This policy replaces all previous College policies regarding Harassment, including those applying to students (“Improper Sexual Conduct Policy,” and “Discriminatory Harassment Policy”) and to faculty and staff (“Employee Dignity Policy”). *See also new Student Policy regarding Sexual Assault*

This policy applies to all students and all employees, including but not limited to full time and part time; regular, short term and temporary; all faculty, applied music instructors, enrichment program instructors, coaches, facilities management staff, support staff and administrative staff.

Approved 15 November 2006 by Eileen Wilson-Oyelaran, President

Contact for information: Human Resources Office; Dean of Students Office

### Harassment Policy

Kalamazoo College strives to maintain a campus environment free from harassment. Sexual and other discriminatory harassment based on a legally protected class are prohibited by state and federal laws. In addition, the College prohibits harassment based on sexual orientation and other harassment. The mission of the College is predicated upon the open and free exchange of ideas, and we must create a climate where diversity of conviction, opinion and expression is both valued and protected. Far from promoting discussion and debate, harassment stifles the free exchange of ideas that is fundamental to the educational life and mission of the College. The College expects all students, faculty and staff to conduct themselves with dignity, courtesy and respect for all students, faculty, staff, visitors, vendors and others. Harassment is a violation of the College’s Honor System, and the College will not tolerate any form of harassment by anyone for any reason, nor will the College tolerate retaliation against anyone who in good faith brings complaints to the attention of the College and/or participates in investigations of such complaints. Conduct in violation of this policy may result in disciplinary action up to and including termination of employment or expulsion from the College.

Unlawful harassment includes:

1. Sexual Harassment – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature is unlawful sexual harassment when
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or status in a class, program or activity;
  - b. Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions (such as hiring, promotion or grading a course);
  - c. Such conduct has the purpose or could be reasonably judged to have the effect of interfering with an individual’s work or educational performance or creating an intimidating, hostile, or offensive environment for work or learning.

Examples of sexual harassment include:

- \* Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion or grades;
- \* Direct propositions of a sexual nature;
- \* A pattern of unwelcome, persistent and unnecessary sexually explicit statements, questions, jokes or anecdotes not related to employment duties, course content, research or other College programs or activities;
- \* Recurring remarks or gestures of a sexual nature about a person’s clothing, body, sexual activity, sexual preference or previous sexual experience;

- \* Repeatedly using sexually degrading words, gestures or sounds to describe a person
  - \* Repeated invitations, phone calls and/or email messages of a sexual nature from someone though you have clearly indicated that such communications are unwelcome;
  - \* Unwelcome touching, patting, hugging or brushing against a person's body;
  - \* Physical and/or sexual assault, which is a criminal offense (see Student Sexual Assault Policy).
2. All other unlawful harassment – the same general principles of unwelcomeness, severity or pervasiveness, reasonableness, and hostile working/learning environment that constitute sexual harassment also apply to harassment based on other legally protected status. Federally prohibited discrimination includes harassment based on race, color, religion, gender, age, national origin, veterans' status and disability. Michigan state law also prohibits discrimination and harassment based height and weight. Unlawful harassment includes unwelcome verbal, physical, or other conduct that creates an intimidating, hostile, or offensive working environment based on protected status or protected activities, or incitement to commit such conduct including, but not limited to, derogatory comments, jokes, slurs, epithets, graffiti or physical acts.

Examples of unlawful discriminatory harassment include:

- \* Verbal abuse, offensive innuendo or derogatory words concerning a person's gender, age, race, color, ethnic or national origin, religion, disability or other protected status;
  - \* Display of pictures or objects designed to create a hostile learning or working environment based on a person's protected status;
  - \* Pervasive and offensive but non-sexual comments regarding a particular gender;
  - \* Offensive jokes or pranks targeted at members of a protected group;
  - \* Threats, intimidation or hostile acts relating to a protected characteristic.
3. Sexual orientation harassment – The same general principles of unwelcomeness, severity or pervasiveness, reasonableness, and hostile working/learning environment that constitute sexual harassment also apply to harassment based on sexual orientation, which is defined as a person's heterosexuality, homosexuality, bisexuality, or gender identity, actual or presumed. Sexual orientation harassment includes unwelcome verbal, physical, or other conduct that would cause a reasonable person to consider the conduct to create an intimidating, hostile, or offensive working environment based on sexual orientation or incitement to commit such conduct, including, but not limited to, derogatory comments, slurs, epithets, graffiti or physical acts.
4. Other harassment – The same general principles of unwelcomeness, severity or pervasiveness, reasonableness, and hostile working/learning environment that constitute sexual harassment also apply to any verbal, physical, or other conduct that would cause a reasonable person to consider the conduct to create an intimidating, hostile, or offensive working/learning environment which interferes with work/learning performance. A single act will not constitute abusive conduct under this policy unless the occurrence is especially severe or egregious.

The College does not condone or allow harassment, whether engaged in by students, faculty or staff; by customers, vendors or other non-employees who conduct business with the College; or by campus visitors. In response to every complaint, the College will promptly investigate, take appropriate corrective and preventive actions to eliminate the offending conduct, and where appropriate will impose disciplinary action.

#### Responding to harassment

An individual who encounters sexual or other unlawful harassment should, where possible, make it clear to the harasser that the behavior is unwelcome, offensive, unlawful and in violation of College policy, and should tell the harasser, clearly and directly, to stop. Whether or not the individual can confront the harasser, any person who thinks he or she has been subjected to or has witnessed harassment within the

College community is urged to report it immediately to his or her supervisor, the Dean of Students, the Human Resources Director or to any Harassment Complaint Advisor or member of the Harassment Review Board (see list below). Do not allow an inappropriate situation to continue by not reporting it, regardless of who is creating that situation. While individuals are encouraged to take action to stop harassment, the College will investigate and take whatever action the College determines is appropriate where complaints of harassment are brought to its attention.

#### Supervisors' reporting responsibilities.

Faculty and staff with supervisory responsibilities exercise authority on behalf of the College and have additional responsibility to ensure that the working and learning environment is free of harassment. Any staff or faculty member with supervisory responsibilities who receives a complaint about harassment, witnesses harassment or otherwise learns of an occurrence of unlawful harassment is required by this policy to report that occurrence immediately to one of the individuals listed above, even if the alleged victim declines to report it.

#### Confidentiality.

The College will strive to have investigations conducted in a neutral, objective and unbiased manner. While confidentiality will be maintained to the extent practicable, no promise of nonaction or anonymity can be made once a complaint has been reported. The College has a legal duty to conduct an investigation. Information will be released on a need-to-know basis. Within these constraints, all parties involved are requested to maintain confidentiality.

Retaliation. The College will not tolerate retaliation against students, faculty or staff who bring complaints to the attention of the College and/or participate in investigations in good faith.

False reports and statements. Knowingly bringing false or malicious statements or complaints of harassment or of retaliation will also be considered a violation of this policy. Anyone who knowingly brings false charges will be subject to disciplinary action. The action of an individual who brings forth a complaint regarding false reporting shall not be considered an act of retaliation. Malicious gossip or unsubstantiated hearsay about individuals with regard to harassment may irreparably affect the standing of a member of the College community and may be considered a violation of the Honor System.

#### Harassment and academic freedom

The College has a profound commitment to the free expression of ideas, including those that are controversial or unpopular. However, sexual harassment and other behaviors in violation of anti-discrimination laws are not legally protected forms of expression and may prevent some individuals from participating fully in the life of the academic community. Such behavior in violation of this Harassment Policy is not protected by law or the policies of the College.

Consensual Relationships. It is the consensus of the College community that sexual relationships between either faculty or staff and Kalamazoo College students are unacceptable and constitute personal and professional misconduct. Such actions may be considered adequate cause for faculty termination under the Plan of Employment of the Board of Trustees and for termination of employment of a staff member. An exception may be made for a personal relationship that was established prior to employment between a student and a staff member hired shortly after his or her graduation from the College.

#### Education and training

Education regarding harassment, discrimination, the College Honor System and related College policies will be required for all incoming students and newly hired faculty and staff. Annual review will be required for all faculty and staff with supervisory responsibilities and highly encouraged for all students, faculty and staff. Objectives of this education will be to prevent or stop harassing behavior by enabling individuals to recognize harassment when it occurs in their own behavior or in that of others, and to empower them with knowledge and procedures to respond to potential or actual harassing behavior or accusations of harassment.

All Harassment Complaint Advisors and Harassment Review Board members will be required to successfully complete an annual training program which will include review of related College policies and legal considerations; available resources for students, faculty and staff; and discussion and clarification of responsibilities and procedures for Harassment Complaint Advisors and the Harassment Review Board.

## **Procedures for Reporting, Investigating and Resolving Complaints**

Procedures for handling incidences of harassment include informal consultations and formal complaint avenues, with an emphasis on advising, mediation, conciliation and timeliness. The procedures are intended to protect the rights of both the complainant and accused, to protect privacy and prevent reprisal.

Possible reporting and resolution sequences include:

1. Informal consultation with a Harassment Complaint Advisor, possible mediation, resolution
2. Formal complaint, investigation, possible mediation, resolution

### **Informal consultations and complaint resolution**

Anyone who thinks they may have been harassed or have witnessed harassment may request an initial consultation with a Harassment Complaint Advisor (see list below) who will assist the individual in making a judgment about whether or not harassment has occurred and advise him or her regarding various ways to respond to the situation. In some cases the individual may choose to communicate to the alleged harasser that the behavior is unwelcome and must stop. If the behavior continues, the complainant should document it and immediately report it. The Harassment Complaint Advisor will follow up with the complainant to confirm that the unwelcome behavior has not recurred.

The complainant may also request that the Dean of Students or Human Resources Director speak with the alleged harasser and communicate the request that the behavior stop. Alternatively, the complainant may request a mediated discussion with the alleged harasser. If both complainant and accused agree, mediation will be arranged. The Dean of Students (or designate) or the Human Resources Director will follow up with the complainant to confirm that the unwelcome behavior has not recurred.

Harassment Complaint Advisors will submit reports on all consultations regarding harassment to the Chair of the Harassment Review Board without identifying the individuals involved. If the seriousness of the alleged behavior warrants or if there is indication that the alleged behavior has continued, the Chair or Alternate Chair may request to meet with the complainant and may initiate an investigation by the Harassment Review Board.

### Harassment Complaint Advisors will include

- All members of the Harassment Review Board (see below), plus
- Associate and Assistant Deans of Students
- Area Coordinators
- Resident Advisors
- Other designated students
- College Chaplain

### Additional Resources for Students

Students are encouraged to contact the Student Counseling Center for confidential consultation.

The following student organizations may also be supportive:

- Asian Student Association (ASA)
- Black Student Organization (BSO)
- Kaleidoscope (Gay/Lesbian/Bisexual/Transgender Student Organization)

- International Student Organization (ISO)
- Muslim Student Group
- Jewish Student Organization (JSO)
- Student Commission
- Women's Resource Center (WRC)

### **Harassment Review Board**

The President of the College will appoint a standing Harassment Review Board to receive and respond to complaints of harassment from students, faculty and staff members. The Board will emphasize mediation and conciliation, and will rely on discreet inquiry and confidentiality in addressing complaints. All members of the College community are expected to cooperate fully with the Board.

#### Board membership

The Board will be composed of the following members:

- Human Resources Director
- Dean of Students
- An Associate Dean of Students
- Two faculty members
- One additional staff member
- Two students (to serve on student-to-student harassment complaints only)

Board appointments will be guided by considerations of continuity; experience; sensitivity to the concerns of students, faculty and staff; ability to be objective and unbiased; and commitment to maintain confidentiality. Faculty members will be nominated by the Provost based upon recommendations from the Faculty Executive Council. Staff members will be appointed by the President, based upon recommendations from the Community Council, the current Board, the President's Staff or any members of the College community. Student members will be nominated by the Dean of Students based upon recommendations of the Student Commission. Membership on the Board will be gender-balanced and members will serve staggered three year terms. Initial appointments and later appointments as needed may be made for one, two and three-year terms to assure a regular annual rotation.

#### Board chair

The Human Resources Director will serve as chair of the Board, act as convener, facilitate administrative operations, participate in investigations, and equitably assign to Board members responsibilities for Board activities. In the absence of the Human Resources Director, the President may assign the Provost or Dean of Students to serve as Alternate Chair. The Chair will be responsible for maintaining records of Board proceedings.

#### Purview of the Harassment Review Board

While informal resolution is often possible and preferable, the College has the obligation to investigate complaints and ensure that harassing behavior does not continue. Both informal consultations (without the identity of those involved) and formal complaints will be reported to the chair of the Harassment Review Board. The chair may elect to bring a complaint to the Board without initially identifying those involved. The complaint situation will be described in writing without disclosing details about the identity of those involved, and the Board will decide whether the complaint falls under its purview. Matters that do not fall under its purview will be referred to the appropriate officer of the College or to the President.

If the Board concludes that the complaint should be considered by the Board, the persons involved will be identified to the Board. At this point, Board members with a potential conflict of interest will be required to withdraw from consideration of the complaint.

## **Formal complaint investigations and resolution procedures**

### Timeliness and communication regarding status of complaint

At each step of this process every reasonable effort will be made to proceed as expeditiously as practicable. The entire process will be completed in as timely a manner as is reasonably possible. Regular communication with both complainant and respondent regarding the status of the complaint investigation and resolution will occur throughout the process and will be the responsibility of the Human Resources Director, and/or Dean of Students or his or her designate.

A formal complaint should be submitted in writing to any member of the Harassment Review Board who will notify the Board Chair. An investigation may also be initiated without a formal complaint if a serious concern relating to harassment is brought to the attention of the Board.

### Investigations

The investigation shall be conducted by the chair and two members of the Board assigned by the chair. If either the accused or the complainant is a student, the investigators will include the Dean of Students or an Associate Dean of Students. If both the accused and the complainant are students, the investigators will include the Dean of Students and/or Associate Dean of Students and a student. If the accused is a staff member, the investigators will include at least one staff member, and if the accused is a faculty member, the investigators will include at least one faculty member. In assigning investigators, consideration will be given to gender balance and the nature of the complaint. At least one investigator should be the same or superior rank as the accused. If there is a compelling reason, the Chair may, in consultation with the President, assign an investigator who is not a member of the current Board.

The person complained against shall be informed of the name of the person making the complaint as well as the substance of the complaint. The investigators will meet separately as soon as reasonably possible with the complainant, the accused and, if deemed appropriate, with any witnesses to clarify what incidents occurred and what views each holds. Both the complainant and the accused may be accompanied by a support person or advisor of their choice from within the College community at all investigative meetings. If the investigators determine that it is appropriate for them to meet with other individuals who may have information relevant to the complaint, they will do so.

The investigators will report their findings to the Board. If the investigators have determined the accusation is invalid, and the Board concurs, the Chair will communicate this determination to the complainant and the accused. If the investigators determine that harassment has occurred, and the Board concurs, the Chair will report this to the complainant, the accused, and, if the accused is a student, to the Dean of Students; if the accused is a faculty member, to the Provost; if the accused is a staff member, to the appropriate Senior Officer of the College.

### Mediation

If the Board recommends mediation and both complainant and accused agree, mediation will be arranged. Mediation does not preclude disciplinary action.

### Suspension and Disciplinary actions

The College reserves the right to suspend faculty, staff or students if it deems it to be appropriate while an investigation is occurring. If the facts are found to support the complaint, timely and appropriate disciplinary action will be taken. Sanctions will be reasonably calculated to end the harassment and avoid its repetition. If the accused is a student, disciplinary action will be determined by the Student Conduct Process. If the accused is a faculty or staff member, the Board may recommend possible resolutions, but College Administration (President and Senior Officers) reserves the right to make the final decision regarding appropriate corrective, disciplinary action. Actions may include, but are not limited to, required counseling, required education, verbal or written reprimand or warning, probation, removal of privileges, removal from the residential system, leave of absence without pay, suspension or termination of

employment/enrollment. A decision to suspend or dismiss a Faculty member is subject to the procedures for Termination of Appointment for Cause prescribed in the Faculty Plan of Employment.

Documentation and retention of records.

Written records of all complaints, findings and resolutions along with minutes of Harassment Review Board proceedings will be retained by the chair for five years. If the Harassment Review Board determines that there has been a violation of the Harassment Policy by a faculty or staff member, that finding and any corrective action will be documented in his or her personnel file. Where a student has been found guilty of harassment, that finding and any corrective action will be documented in a confidential file in the Dean of Student's Office.

Appeals

A student wishing to appeal a decision should refer to "Student Conduct Procedures - Appeals Panel."

A faculty or staff member may appeal in writing to the President. The President will decide whether an appeal will be heard. The decision will be based on new evidence or a failure of due process. Appeals will not be heard to reconsider disciplinary action. The President will assign an Appeal Board consisting of the President or his or her designate, a faculty member and/or a staff member.