

Non-Discrimination Policies and Procedures

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STUB	nondiscriminationpoliciesandprocedures
3 CATEGORIES	Governance and Grievance Procedures Employment Policies Faculty Handbook 3.350
ADOPTED	March 1, 1995
4 REVISIONS	Explanatory note added Change(s) made related to revision of state law regarding non-discrimination. Corrected phone numbers and URLs.
1 REFERENCES	Sexual Harrassment

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I. Policy Statement

The Evergreen State College is committed, as a matter of principle, and in conformance with federal and state laws, to prohibiting discrimination and behaviors, which, if repeated, could constitute discrimination. The President of the Evergreen State College, as the delegate of the Board of Trustees, directs that all personnel and student-related transactions, and the operation of all College programs, activities and services, will not discriminate on the basis of race, color, religion, creed, national origin, sex, sexual orientation, gender identity, gender expression, marital status, age, disability, pregnancy, or status as a disabled veteran, a Vietnam era veteran or other covered veteran. Harassment on any of the above-stated grounds is a form of prohibited discrimination. This policy applies to faculty, staff and students. This policy also prohibits retaliation for reporting possible violations of this policy, for cooperating with any related investigation, or for participating in such a complaint process.

II. Legal Basis

Among the laws upon which the College's Non-Discrimination Policy is based are: Titles IV, VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, the Age Discrimination in Employment Act of 1967, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, the 1975 Age Discrimination Act, the Equal Pay Act, the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, the Veteran's Employment Opportunities Act of 1998, and RCW 49.60, Washington State laws against discrimination.

III. Definitions

- A. "A person with a disability" means any person who: (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) has a record of such impairment; (3) is regarded as having such an impairment; or (4) is

otherwise deemed disabled under applicable federal or state law. Click here for information on the [College's Reasonable Accommodation](#) policy.

B. "Age Discrimination" refers to actions prohibited by the Age Discrimination in Employment Act of 1967, which protects individuals who are 40 years of age or older from employment discrimination based on age.

C. "Complainant" refers to the person or persons who initiate a complaint.

D. "Gender Identity and Gender Expression" refer, respectively, to the gender one self-identifies as, and the gender one expresses oneself as.

E. "Harassment" is a form of behavior that is characterized by conduct: (1) based on race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, pregnancy, or status as a disabled, Vietnam era or other eligible veteran which is unwelcome; AND (2) if sufficiently severe, persistent or pervasive could reasonably be expected to create an intimidating, hostile or offensive working or learning environment.

F. "Marital Status" means the legal status of being married, single, separated, divorced or widowed. It does not include consideration of cohabiting relationships.

G. "Other covered veteran" means a veteran who served in active duty during a war or in a campaign or expedition for which a campaign badge has been authorized; veterans who, while serving on active duty in the Armed Forces, participated in a United States military action for which an Armed Forces service medal was awarded pursuant to Executive Order No. 12985 (61 Fed. Reg. 1209); and recently separated veterans.

H. "Respondent" is the person or persons about whom a complaint has been initiated.

I. "Retaliation" refers to adverse actions by an employer because of an individual's participation in a protected activity, such as participating in a discrimination complaint process.

II. "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

IV. Complaint and Resolution Procedures

A. Filing a Complaint

A person who believes s/he has been harassed or been subject to discriminatory treatment within the Evergreen Community because of race, color, national origin, sex, age, marital status, sexual orientation, religion, disability, pregnancy or veteran status, or has been retaliated against for participating in such a complaint process, is urged to utilize the complaint procedures provided by the college through the Civil Rights Office. The current Civil Rights Officer is Nicole Ack, Library, Room 3238, (360) 867-5371, TTY (360) 867-6695, ackn@evergreen.edu.

The Civil Rights Officer receives formal complaints, which must be filed within 300 days of the alleged act of discrimination. In addition, anyone may contact the Civil Rights Officer for the purposes of policy clarification, advice, assistance, or mediation. A complainant may choose to pursue any of these options, and these are not steps that need to be pursued sequentially.

The college reserves the right to initiate an investigation where there is evidence

that a violation of this policy may have occurred.

B. Resolution Options

1. Mediation: An individual may seek the assistance of the Civil Rights Officer to mediate or locate other qualified mediator(s) acceptable to the parties. Mediators work with both parties and provide assistance in reaching a mutually acceptable resolution. Records of the mediation itself will not be kept by the mediator(s) except for documents signed by both parties agreeing to mediate in good faith and the final resolution document. Mediators may not become witnesses in any subsequent proceedings. The results of the mediation may include sanctions agreed upon by all parties to the mediation.

2. Resolution Conference : The Civil Rights Officer may contact the complainant and the respondent and request a conference to discuss the complaint, response, clarify the issues and attempt resolution.

3. Investigation: If the Civil Rights Officer commences a formal investigation, it shall be his or her responsibility to solicit and compile information about the complaint either acting as the sole investigator or through an investigative team. The initial determination as to whether to use a team or individual approach will be made by the Civil Rights Officer, with the following factors taken into account: a) request of a party for one method or another; b) need for gender balance in a team; c) the Civil Rights Officer's own concern about lack of necessary substantive knowledge; and/or d) the complexity of the case and/or number of parties involved making a team approach possibly more efficient.

Challenges to the use of a sole investigator or investigative team, or to the composition of the team, must be made to the Civil Rights Officer within three days of notification of the initiation of an investigation. Appeals to the Civil Rights Officer's decision may be made first to the Associate Vice President of Human Resource Services and then to the Vice President of Finance and Administration, whose decision will be final.

The investigation should be thorough and completed as quickly as possible. Both the complainant and the respondent may choose a representative to participate in any interviews, may suggest witnesses to be interviewed, and may submit informational documents and/or statements.

The Civil Rights Officer and/or investigative team may also solicit information and/or documentation from any appropriate individuals. The Civil Rights Officer and/or investigative team will attempt to conduct interviews with witnesses and other parties at convenient times for the participation of parties and/or representatives.

A formal investigation can be terminated at any time should a mutually satisfactory resolution be reached before a written finding is made.

It is the responsibility of all students, faculty, and/or staff involved in the information-gathering process to cooperate with the investigator and to provide truthful and complete information.

If, in the course of the investigation, it is found that false accusations were knowingly made, the Civil Rights Officer will include evidence of such into in

her/his report.

After the investigation is completed, the Civil Rights Officer shall write an investigative report summarizing the facts of the case. This summary shall contain: (1) statement of allegation; (2) reply to the allegation by the respondent; (3) statement of evidence; and (4) a conclusion as to whether the Non-Discrimination Policy has been violated. When completed, the investigative report will be forwarded by the Civil Rights Officer to the complainant(s)'s and respondent(s)'s Vice President, or in the case of faculty to the Provost, and in the case of students to the Campus Grievance Officer. The respondent and the complainant will receive a copy of the investigative report.

If the finding is that the policy has not been violated, the parties will be notified and the case will be closed. Complainant's internal options are exhausted at this point. Any further action on the part of the complainant would be through external agencies. Should the finding be that the policy was violated, the case will either progress to the post-investigation deliberation stage or to the post-investigative actions stage.

C. Post-Investigation Deliberations:

The Civil Rights Officer may, within 10 days of the release of the investigative report, convene the parties to determine whether there is consensus as to the statements of evidence and to discuss possible resolution. Participants are under a duty of good faith to seek consensus and resolution. Should resolution be achieved, the parties will sign an agreement of resolution of the case outlining the terms and the case will be closed, reflecting resolution. Factors militating against this procedure include, but are not limited to, indications of a pattern and practice of discriminatory behavior or inappropriateness of such a forum for the involved parties.

D. Post-Investigation Actions:

- If no resolution has been reached, the Civil Rights Officer will submit a summary of any deliberations to the Associate Vice President of Human Resources, to the Vice President(s) of the principals, to the Provost if faculty is involved, and to the campus Grievance Officer if students are involved.

If it is found that the Non-Discrimination Policy was violated, and no resolution has been achieved, action will be taken as follows:

- **Student(s) as respondent(s)** : The campus Grievance Officer will take action in accordance with the Student Conduct Code and established guidelines.
- **Classified staff as respondent(s)** : The appointing authority(ies) and/or appropriate Vice President(s) will take action based on Civil Service rules and the Collective Bargaining Agreement.
- **Faculty as respondent(s)** : The Provost will take action in accordance with Faculty Handbook guidelines.
- **Exempt staff as respondent** : The appointing authority(ies) and/or divisional Vice President(s) will take

action as appropriate.

E. Sanctions

Sanctions to be considered by the Appointing Authority(ies) and or divisional Vice President(s), and in the case of students, the Grievance Officer, can vary in type, severity and duration, depending on the specifics of each case. All sanctions, with the exception of termination or dismissal, will include education. Though not an exhaustive list, examples of sanctions to be considered are:

- Termination of employment;
- Suspension with or without pay;
- A public acknowledgement and/or apology;
- Community/public service;
- Letters of reprimand to be placed in official employment file or portfolio;
- Attendance at workshops or seminars dealing with the violation issue;
- Reduction of responsibilities (demotion);
- Temporary or permanent reduction in pay;
- Denial or postponement of leaves, sabbaticals or salary increases;
- Temporary ejection from the premises;
- Suspension or dismissal from the college (students).

F. Sanctions Against Knowingly Filing False Complaints

The college considers the intentional filing of a false complaint to be serious misconduct. It is a violation of college policy and of state and federal civil rights laws. Sanctions for such an offense may be as severe as dismissal from the college or termination of employment.

A finding that the Non-Discrimination Policy was not violated will not in itself be the basis for a charge of a false accusation. This section should not be construed as a warning against the raising of a complaint.

G. Records Retention

All written proceedings, including the complaint, the response, testimony of witnesses, and other documentation relating to the complaint, will be placed in a confidential file in the college Civil Rights Office. The records will not become a part of the personnel file unless this is a stipulated part of the sanction.

H. External Agencies

Evergreen's policies and procedures are not intended to impair or limit the rights of anyone to seek a remedy available under state or federal law.

A person who believes s/he has been the subject of discrimination may choose to file with the following agencies.

[Washington State Human Rights Commission](#)

402 Evergreen Plaza Building

711 S. Capitol Way

Olympia, WA 98504

1-800-233-3247
TTY 1-800-300-7525

Office for Civil Rights, Region X

U. S. Department of Education
915 Second Avenue, Room 3310
Seattle, WA 98174
Telephone: 206-220-7900
FAX: 206-220-7887; TDD: 206-220-7907
Email: OCR_Seattle@ed.gov

HOW TO FILE AN ONLINE COMPLAINT

OCR encourages students and parents, representatives of education institutions, and other OCR customers to use e-mail or fax to communicate with OCR, whenever possible. Also, complainants may file a complaint with OCR, online, at the following website:
<http://www.ed.gov/ocr/complaintprocess.html>.

U.S. Equal Employment Opportunity Commission

Seattle District Office
Federal Office Building
909 First Avenue, Suite 400
Seattle, WA 98104-1061
Telephone: 800-669-4000

V. Policy Dissemination

A. Internal Dissemination

The Evergreen State College's Non Discrimination Policy will be made available to all college employees and students, will be included with information materials given to all new employees, will be posted in college offices, and will be available on the College web-site.

B. External Dissemination

The Evergreen State College will inform all recruitment sources about the College's Non-Discrimination Policy and will include applicable information in all job announcements and advertisements for vacant positions.

Non-Discrimination clauses will be incorporated in all agreements and contracts with contractors and vendors from whom the college purchases goods and services; organizations or business establishments with which the college has internships; and representatives of off-campus persons or groups that schedule the use of college facilities for conferences, conventions or other activities.