

## **STANDARDS OF CONDUCT**

### **DISCRIMINATION AND HARASSMENT**

Wesleyan is an institution devoted to learning, openness, and the life of the mind; it follows that its character can be measured in part by the kind of human relationships built and sustained within this small but complex environment. The community itself will flourish only to the degree that the virtues of mutual respect, generosity, and concern for others are maintained. It is vitally important, therefore, that harassment and discrimination in all their forms not be tolerated.

#### **I. Discriminatory Harassment**

Harassment of employees that can be construed as discriminatory violates state and federal law. The courts and the Equal Employment Opportunity Commission interpret federal civil rights laws to prohibit harassment based on race, gender, religion, national origin, age, disability, or any other protected class. The University is required to act promptly so as to assure that if such harassment is, in fact, occurring, or has occurred, the problem will be dealt with effectively. The University itself prohibits any form of harassment based on race, color, religion, gender, disability, age, veteran status, sexual orientation, ancestry, national origin, gender identity, gender expression, or any other class protected by applicable law. All complaints will be taken seriously and investigated as appropriate. The totality of the circumstances and the context in which the behavior is alleged to have occurred will be considered in determining whether this policy has been violated. This approach is intended to ensure the protection of academic freedom. Wesleyan will not tolerate retaliation against individuals bringing a complaint or participating in an investigation. The ultimate responsibility for maintaining an environment free of discrimination, harassment, and retaliation rests with the University. (Non-discriminatory harassment is treated in Section V below.)

#### **Sexual Harassment**

Sexual harassment is a form of discriminatory harassment occurring within an employment or educational context that federal and state law addresses with very specific provisions. In cases where sexual harassment is alleged, the University has a duty to act promptly, so as to assure that if

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such harassment is, in fact, occurring or has occurred, the problem is dealt with and further harm is prevented.

The guidelines of the Federal Equal Employment Opportunity Commission concerning discrimination on the basis of sex define sexual harassment of employees as a violation of Title VII of the Civil Rights Act of 1964 as amended. Those guidelines state:

Unwelcome sexual advances, requests of sexual favors, and other verbal or physical contact of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such an individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Additionally, Title IX, which applies to any educational program or activity that receives federal funds, protects both employees and students from sexual harassment because it constitutes differential treatment on the basis of sex. In an August 1981 policy memorandum, the Office of Civil Rights (OCR) of the U.S. Department of Education reaffirmed its jurisdiction over sexual harassment complaints under Title IX and adopted the following working definition:

Sexual harassment consists of verbal or physical conduct of a sexual nature, imposed on the basis of sex, by an employee or agent of a recipient that denies, limits, provides different, or conditions the provision of, aid, benefits, services, or treatment protected under Title IX. (OCR Policy Memorandum, August 31, 1981)

## **II. Addressing Complaints of Discriminatory Harassment**

The University will address any complaint alleging discriminatory harassment, including sexual harassment, and will take corrective action as appropriate.

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Attempts to resolve concerns or complaints involving discriminatory harassment informally are encouraged. Experience has shown that most harassment concerns or complaints, whether perceived or real, can be resolved by prompt action.

Any member of the Wesleyan community who becomes aware of an incident that might create a discriminatory, hostile, or harassing working or learning environment or believes that he or she is, or may have been, the object of discriminatory harassment should report it to the appropriate person listed below. All complaints will be investigated and handled in as confidential a manner as possible.

Complaints may be adjudicated by different bodies, depending on the nature of the complaint and the position of the individual against whom a complaint has been made. Given the sensitive and often difficult nature of bringing complaints or raising concerns regarding discriminatory harassment, a student or member of the faculty or staff who prefers may bring a harassment concern or complaint to the attention of an administrator different from those listed below. For example, a student may prefer to discuss a concern about harassment with, and seek counsel from, the Dean of the College or a class dean, regardless of the position of the person alleged to be engaging in harassment. Similarly, a staff member may prefer to discuss a concern about harassment with, and seek counsel from, the Director of the Affirmative Action or the Director of Human Resources, regardless of the position of the person about whom the concern exists

### **A. Making a Complaint Against a Staff Member**

A complaint of discriminatory harassment against a staff member may be made orally or in writing to any of the following:

- The staff member's supervisor;
- The department or program chair;
- The Director of Affirmative Action; or
- The Director, or an Associate Director, of Human Resources.

The Director of Human Resources should be notified of any complaint of discriminatory harassment against a staff member that is submitted to one of the above officials and is responsible for insuring that an appropriate

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investigation takes place and that the Director of Affirmative Action is consulted during the investigation.

### **B. Making a Complaint Against a Faculty Member**

A complaint of discriminatory harassment against a faculty member may be made orally or in writing to any of the following:

- The department or program chair;
- The dean of the division;
- The Vice President for Academic Affairs; or
- The Director of Affirmative Action.

The Vice President for Academic Affairs should be notified of any complaint alleging discriminatory harassment by a faculty member that is submitted to one of the above officials and is responsible for insuring that an appropriate investigation takes place and that the Director of Affirmative Action is consulted during the investigation.

The Faculty Committee on Rights and Responsibilities may play a role in cases of discriminatory harassment after the University has acted as required by law, and is always involved when it is determined that the alleged offense might result in dismissal or suspension without pay. Thus, in circumstances in which a complaint of discriminatory harassment is made by or against a faculty member, the procedures described under the **Faculty Committee on Rights and Responsibilities** should also be consulted.

### **C. Making a Complaint Against a Student**

A complaint of discriminatory harassment against a student may be made orally or in writing to any of the following, depending on the student's status:

- The Dean of the College; the Director of Graduate Studies; the Dean of Continuing Studies
- A class dean; or
- The Director of Affirmative Action.

The appropriate dean or the Director of Graduate Studies should be notified of any such harassment complaint against a student that is submitted to one of the above officials and is responsible for insuring that an appropriate

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investigation takes place and that the Director of Affirmative Action is consulted during the investigation.

At any time after submitting a harassment complaint to one of the above officials, the complainant may also submit a formal complaint to the Student Judicial Board or the Graduate Judicial Board, pursuant to the procedures described in the Student Handbook.

### **D. Making a Complaint Against Someone Who Does Business with the University**

A complaint of discriminatory harassment against someone who does business with the University may be made orally or in writing to the Vice President for Finance and Administration or the Director of Affirmative Action.

### **E. Complaints by Campus Visitors**

A visitor to Wesleyan's campus who feels he or she has been subject to discriminatory harassment by a member of the Wesleyan University community should direct a complaint to the Director of Affirmative Action.

## **III. Investigations of Complaints and Confidentiality**

When the University receives notice of conduct that appears to be discriminatory harassment, it will promptly investigate the allegation in a fair and expeditious manner. During an investigation, the person accused of harassment will be informed of the substance of the complaint by the individual conducting the investigation, who will give the accused person an opportunity to respond. The person making the complaint or the person accused of such harassment may seek the assistance of a counselor who is a member of the Wesleyan community (faculty, administration, or staff), so long as the investigation is not delayed. The counselor must agree to observe confidentiality. In order to determine the facts and views of both parties, the investigator may, as appropriate, conduct interviews with the complainant, witnesses, and the accused party. When the investigation is completed, the person making the complaint and the person alleged to have committed the conduct will be informed, to the extent appropriate, of the results of the investigation. It should be noted that this process may not be appropriate in every circumstance and should be considered a flexible one that can be modified to suit the situation, with advance notice to all parties.

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Because the University is required by the law to conduct a prompt and impartial investigation of complaints of discriminatory harassment, strict confidentiality with respect to such harassment complaints cannot be guaranteed.

### **IV. Supervisory Training**

In accordance with Connecticut law, all faculty and staff members who have supervisory responsibilities are required to attend a sexual harassment prevention training program within six months of their assumption of those responsibilities. This training should include guidance regarding the investigation of sexual-harassment complaints.

### **V. Non-Discriminatory Harassment**

The University also prohibits harassment not specifically based on a person's or persons' membership in a protected category. Attempts to resolve concerns or complaints involving non-discriminatory harassment informally are encouraged. If, however, the complaint is not resolved informally, it may be adjudicated by different bodies, depending on the nature of the complaint and the position of the individual against whom a complaint has been made. Complaints regarding non-discriminatory harassment by faculty, students, administrators, staff, vendors or visitors should be directed to the Faculty Committee on Rights and Responsibilities, the Student Judicial Board, the Graduate Judicial Board, the Office of Human Resources, or the Office of Affirmative Action as appropriate.

### **VI. Questions**

Any questions regarding this policy should be directed to the Director of Affirmative Action.