

<b>MILLS COLLEGE</b>	<b>Administration Policy Manual</b>
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## **Grievance Policy and Procedures**

Policy Number 3730

**Effective Date: May 15, 2008**

**Revised: August 1, 2013**

### **I. Introduction and Purpose**

Mills College is committed to creating and maintaining a community where all individuals are treated with equality of opportunity, free from discrimination and harassment.

Mills College desires to promote healthy and respectful discourse and inquiry, and a living, learning, and working environment that is free of unlawful harassment, discrimination, exploitation or intimidation; welcoming and valuing the full richness of our diversity, while working towards social justice.

Decisions and behavior that a member of the community believes may violate this commitment may be addressed by using this Grievance Policy.

Mills College will take prompt and effective corrective action when it concludes that there has been unlawful discrimination or harassment, or where its officers decide that it is important to take action to prevent a future such instance.

The College is committed to taking the following steps towards these goals:

- strengthening institutional policies to help make them accessible to those individuals who find themselves placed in what they believe to be discriminatory or harassing circumstances;
- encouraging additional and continual education among students, faculty, and staff to counteract hate-based, harassing, or discriminatory behavior;
- enforcing consistent disciplinary action and/or sanctions that apply to students, faculty, and staff who are found to violate the codes of conduct currently articulated in the faculty, student, and employee handbooks;
- considering other ways that promote the development of a culture of acceptance and civil discourse among different Mills College constituency groups.

### **II. Definition**

#### **Grievance**

A grievance under this Policy is accusation within the College, of a non-academic nature about a decision or behavior on the part of a student, faculty member, staff or other

employee, or other individual associated with Mills College that the Grievant perceives to create a harmful, living learning working environment, including, but not limited to, claims of discriminatory treatment or discriminatory impact, or bias-related incidents, in both cases where the Grievant believes that the decision or behavior resulted from perceived or actual hostility against the Grievant or a group because of race, color, sex, gender identity, gender presentation, disability, sexual orientation, age, ancestry, ethnicity, national origin, family status and/or spiritual/religious beliefs.

### **Bias-Related Incidents**

These are incidents that are expressions of hostility against another individual (or group) because of race, color, sex, gender identity, gender presentation, disability, sexual orientation, age, ancestry, ethnicity, national origin, family status and/or spiritual/religious beliefs and/, or because the perpetrator perceives that the other person (or group) has one or more of these characteristics. It also envisions instances of protected (but hateful or intolerant) speech that may generate harm, and thus may warrant College intervention. Bias-related incidents need to be addressed because they harm individuals and/or groups, undermine civility and understanding in the Mills community, as well as impede the educational process.

### **Hate Crimes**

A hate crime, as the College considers it, is a criminal act that is committed against the person or property of another because of the other person's actual or perceived race, color, sex, gender identity, gender presentation, disability, sexual orientation, age, ancestry, ethnicity, national origin, family status and/or spiritual/religious beliefs.

Hate crimes also include any such crimes committed against the property of a public agency or private institution - including educational facilities and advocacy groups - because the property of the agency or institution is identified or associated with a person or group of an identifiable race, color, sex, gender identity, gender presentation, disability, sexual orientation, age, ancestry, ethnicity, national origin, family status and/or spiritual/religious beliefs.

### **Retaliation**

This Policy also prohibits retaliation against a person who makes a grievance under this Policy or who participates in any manner in this procedure or any government inquiry into a matter that would be proper to be a grievance under this Policy. Retaliation includes, but is not limited to, threats, intimidation, reprisals, and/or adverse actions related to employment or education.

## **III. Procedures**

Three College Grievance Officers, one each for faculty, staff, and students, are appointed to assist community members in addressing and resolving disputes and grievances of the kind defined this Policy. Grievance Officers are responsible for early resolution efforts, investigation procedures, and overall implementation of the procedures in this Policy.

Any of the three Grievance Officers can be a point of first contact, responsible for intake of grievances, coordination of early resolution efforts and formal investigations, data gathering, and analysis.

The Faculty Grievance Officer will be appointed by the Provost; the Staff Grievance Officer

will be appointed from Human Resources by the Vice President for Finance and Administration/Treasurer. The Vice President for Student Life and Dean of Students will appoint the Student Grievance Officer and will be responsible for coordinating the Grievance Process.

A person with a grievance (“Grievant”) can file a grievance by contacting a Grievance Officer in various ways such as by telephone, email, in writing, or in person.

The grievance process will be overseen by the Office of Human Resources. The Legal, Benefits & Insurance Coordinator, under the Office of Human Resources, will maintain records and coordinate grievance efforts of proactive/preventative College policies. Any Cabinet Member, manager, supervisor, or Human Resources employee can accept grievances of unlawful harassment or discrimination in employment. Such reports will then be coordinated through the Grievance Process.

### **1. Early Resolution**

The goal of Early Resolution is to resolve grievances at the earliest stage possible, with the cooperation of all parties involved. A grievant may elect to bypass the early resolution option and proceed directly to a formal investigation, unless the College Grievance Officer determines that the College wishes to take more prompt action prior to completion of formal investigation.

In all cases, with or without a grievance, and with or without the conclusion of the formal grievance process, the College retains the authority to take whatever action it determines to be proper to obtain prompt and effective corrective action when it already believes that there is a problem that it wishes to resolve in a more expeditious fashion.

Early Resolution may include an inquiry into the facts, but typically does not include all of the processes of a Formal Investigation. Means for Early Resolution shall be flexible and encompass a full range of possible appropriate outcomes. Early Resolution includes options such as mediation, counseling, negotiated disciplinary action, targeted educational and training programs, and other remedies for the individual harmed. Early Resolution also includes options such as discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to assure that the resolution has been implemented effectively.

#### **Sexual Assault/Sexual Harassment**

Certain types of grievances such as sexual assault or sexual harassment often are not appropriate for early resolution. If a student needs to file a sexual assault/sexual harassment grievance, they should refer to the sexual assault/sexual harassment protocol found in the Appendix of the Student Handbook. Faculty and staff filing a sexual harassment/assault grievance should follow the process outlined in the Employee Handbook.

### **2. Formal Investigation**

In cases where, in the judgment of the Grievance Officer, Early Resolution is not appropriate (including some of the instances when the facts are in dispute, there are physically dangerous situations, or when reports involve individuals with prior behaviors

of concern such as stalking, sexual or physical assault, or harassment) or in cases where Early Resolution is unsuccessful, the College may conduct a Formal Investigation. In such cases, the individual making the report shall be encouraged, but not required, to file a written request for Formal Investigation. The wishes of the individual making the request shall be considered, but are not determinative, in the decision to initiate a Formal Investigation. A Grievance Officer may also initiate an investigation upon learning of a potential grievance and/or make a preliminary inquiry into the facts under this Policy.

A grievance should include the names of the Grievant(s) and the respondent party(ies). It will also include a specific description of the objectionable behavior or circumstances. When relevant, a statement of the College rule or policy violated by the objectionable behavior or circumstances is helpful. (The relevant rules and policies are to be found in the Faculty Handbook, the Student Handbook, and the Staff Handbook.) Finally, the grievance should include a statement of the reason(s) the respondent is believed to be responsible for that behavior. A community member respondent under this Policy will have an opportunity to present a response to asserted allegations.

The reply may state defenses citing rights, rules or policies of the College. The reply may also include counter-allegations, when appropriate. If the respondent chooses not to submit a written reply, the case will proceed without it.

The investigation shall be completed as promptly as possible and in most cases within thirty (30) calendar days of the date the request for formal investigation was filed. Under extenuating circumstances this deadline may be extended by the Grievance Officer, but not longer than an additional thirty (30) days.

Generally, an investigation should result in a written report that at a minimum includes a statement of the allegations and issues, the positions of the parties, a summary of the evidence, findings of fact, and a determination by the investigator as to whether College policy has been violated. The report shall be submitted to a designated Cabinet Member with authority to implement the actions necessary to resolve the grievance.

A grievance against a Grievance Officer may be presented to one of the other Grievance Officers, or to Employee Services.

A grievance against the College President is to be resolved by the Executive Committee of the College's Board of Trustees, or an entity or person so designated by the Committee.

In the opinion of the Grievance Officer, s/he may recommend to the cognizant College Officer that the respondent or Grievant be placed on administrative leave until the investigation is completed.

#### **IV. Procedures for Alleged Bias-Related Incidents**

The College believes it is important to respond to a hate crime or a bias-related incident with concern for the student or group of students who has been targeted and the community as a whole.

Likewise, the College believes it is also important to not pre-judge allegations and to consider any legitimate free speech interests in the situation.

If a particular group has been targeted, public safety, along with a representative from the Incident Response Team (IRT) and/or the Dean of Students, will assist the student(s) in documenting the event and will explain the options for addressing what has occurred. If the incident is a crime, the student(s) will be assisted in contacting the police. If the incident involves the violation of a College policy, the procedures for investigation and resolution under that policy will be undertaken.

A wide range of assistance is available to students who are targeted. An IRT member will assist with referrals to the various resources on and off campus. The Dean of Students (or delegate), in collaboration with Housing and Dining Services (HMDS), the Provost's Office and the Office of Residential Life (ORL), will try to ensure that affected students feels safe in their residential environment and will, if appropriate, adjust campus housing, and/or change course schedules, if possible.

When hate crimes and bias-related incidents occur on campus, they can strain the fabric of the community. If needed, IRT will convene in collaboration with Public Safety, and will consider what sort of communication and/or intervention about the incident is appropriate, taking into account various interests such as personal safety and confidentiality.

In some cases, public discussion about the incident can serve to educate the community and promote awareness of prejudice and intolerance. Programs that address bias-related incidents can change a hateful incident into an opportunity for increased understanding, dialogue and personal growth. The targeted student (or group) may elect to participate in College-sponsored discussion of the incident. Programs may include one or more of the following: residence hall discussions, open forums, panels, films, speakers and other educational programming.

Among other things, these events may serve to help the community understand and address what has occurred. In addition, the professional staff within the residential community will also be prepared to provide leadership in responding to such an event.

#### **Incident Response Team (IRT)**

The team will assemble as needed and will address issues relating to hate crimes and bias-related incidents. IRT will be composed of the Dean of Students, and one or two staff members in the Division of Student Life (DSL), one or two members of the faculty, a representative from Public Safety, a representative from Human Resources and two student representatives chosen from the campus community and/or ASMC. The goal is to have a diverse group of representatives from across the campus.

#### **IV. Appeals**

If disciplinary action is warranted under this Policy, a respondent may request an appeal regarding irregularities in the investigative process or the disciplinary action imposed (respondent only) before an Appeals Officer. An appeal may not be filed by a grievant to address a disciplinary sanction imposed upon the respondent. The party bringing the appeal has the burden of proving that procedures were not followed. The Appeal Officer's decision is final.

In most cases, the Vice President of Student Life will act as the Appeals Officer for students, the Provost and Dean of Faculty for faculty, and the Vice President for Finance and Administration/Treasurer for staff.

An appeal must be filed in writing with the Appeals Officer within thirty (30) calendar days of receipt of the original grievance or administrative decision.

**V. Confidentiality of Reports**

The College will make efforts to consider the privacy of individuals involved in making a report under this Policy. An investigation may result in the gathering of extremely sensitive information about individuals in the College community. While such information is treated with measures of confidentiality, personal information inevitably is discussed and, to effectuate the Policy, assurances of complete confidentiality cannot be made. In most cases, copies of reports will be retained for seven (7) years.

Certain College employees, such as the Cabinet Members, managers, supervisors, and other designated employees have an obligation to report to the Grievance Officers certain kinds of conduct, even if the individual affected by the conduct requests that no action be taken. Failure of these individuals to report such conduct after learning of it may be grounds for disciplinary action. An individual's requests regarding the confidentiality of reports of this nature will be considered in determining an appropriate response.

**VI. Reporting and Education**

The Legal, Benefits & Insurance Coordinator will be the office of record for all grievances. An annual report to the community regarding aggregated grievance information, reporting, and findings will be issued by that office.

As part of the College's commitment to providing an inclusive and harassment-free working and learning environment, this Policy shall be disseminated widely to the College community through publications, websites, new employee orientations, student orientations, and other appropriate channels of communication.