

Discrimination and Harassment Policy & Procedures

I. Discrimination and Harassment Policy

Newberry College affirms that all men and women are to be treated fairly and equally, with dignity and respect. This policy applies to all faculty, students, staff, visitors, guests and agents, and representatives and employees of vendors while on the College campus or work sites and while participating in College sponsored activities located off-campus. Newberry College will not tolerate discrimination and/or harassment on the basis of gender/gender identity, sexual orientation, race, color, national origin, religion, age, marital status or disability (protected characteristics).

II. Prohibited Conduct

Discrimination and harassment includes many forms of offensive behavior. Any form of discrimination or harassment contradicts the policies of Newberry College and will not be condoned or tolerated.

Discrimination and/or harassment on the basis of any protected characteristic is strictly prohibited. Under this policy, discrimination and/or harassment is any conduct (verbal, non-verbal, or physical) that is hostile or adverse toward any individual because of his/her gender/gender identity, sexual orientation, race, color, national origin, religion, age, marital status or disability or any other characteristic protected by law, or that of his/her relatives, friends or associates and that: (A) creates an intimidating, hostile or offensive work or learning environment; or, (B) unreasonably interferes with an individual's work or academic performance; or, (C) otherwise adversely affects an individual's employment or academic opportunities.

A. Sexual Harassment

Sexual harassment is defined by Newberry College to be any unwanted or unwelcome sexual conduct, including but not limited to comments, suggestions, physical contact or propositions backed by implied threats of losing, raising or lowering work or academic status, and/or forced sexual relations.

Sexual harassment is considered a form of sex discrimination and is prohibited under Title VII of the 1964 Civil Rights Acts as amended and Title IX of the 1972 Amendment to the Higher Education Act.

B. Faculty/Student Relationships

1. Policy.

As a matter of sound judgment and professional ethics, faculty members have a responsibility to avoid any apparent or actual conflict between their professional responsibilities and personal relationships with students.

Romantic and/or sexual relationships between a faculty member and a student have the potential to pose risks to the student, faculty member, third parties and the College. In such relationships, voluntary consent by the student is suspect because of the inherently unequal nature of the relationship. A romantic and/or sexual relationship between a faculty member and a student can lead to a complaint of sexual harassment when the student feels that he or she has been exploited. In addition, other faculty members, staff members or students may express concerns about undue access or advantage, favoritism, restricted opportunities or unfavorable treatment as a result of a relationship.

2. Definition.

"Supervisory responsibility" includes, but is not limited to, teaching, research, academic advising, coaching, service on evaluation committees, grading, recommending in an institutional capacity for employment, fellowships or awards. This supervision can occur on or off campus.

3. Regulation.

- a. Prohibited: If a faculty member has a supervisory responsibility over a student, the faculty member is prohibited from having a romantic and/or sexual relationship with the student.
- b. Strongly discouraged: If the faculty member does not have supervisory responsibility over the student, the College strongly discourages any romantic and/or sexual relationship between the faculty member and student.
 1. If the faculty member and the student are married or in a domestic partnership as defined by College policy, they may make a written application to the Vice President of Academic Affairs to be released from this policy; however, the faculty member in this situation, to the extent reasonably possible, should avoid having "supervisory responsibility" over the student.

C. Staff/Student Relationships.

1. Policy.

As a matter of sound judgment and professional ethics, staff members have a responsibility to avoid any apparent or actual conflict between their professional responsibilities and personal relationships with students.

Romantic and/or sexual relationships between a staff member and a student have a potential to pose risk to the student, staff member, third parties and the College. In

such relationships, voluntary consent by the student is suspect because of the inherently unequal nature of the relationship. Romantic and/or sexual relationships between a staff member and a student can lead to a complaint of sexual harassment when the student feels that he or she has been exploited. In addition, other staff members, faculty members or students may express concerns about undue access or advantage, favoritism, restricted opportunities, or unfavorable treatment as a result of a relationship.

2. Definition.

“Supervisory responsibility” includes, but is not limited to, working for, mentoring, coaching, recommending in an institutional capacity for employment, fellowships or awards. This supervision can occur on or off campus.

3. Regulation.

- a. Prohibited: If a staff member has a supervisory responsibility over a student, the staff member is prohibited from having a romantic and/or sexual relationship with the student.
- b. Strongly discouraged: If a staff member does not have supervisory responsibility over the student, the College strongly discourages any romantic and/or sexual relationship between the staff member and student.
 1. If the staff member and the student are married or in a domestic partnership as defined by College policy, they may make a written application to the Vice Presidents of Academic Affairs and Business Affairs to be released from this policy; however, the staff member in this situation, to the extent reasonably possible, should avoid having “supervisory responsibility” over the student.

III. Enforcement Procedures

A. Initial Reporting

An individual who feels he/she has been the object of discrimination and/or Harassment, or has witnessed the same, should first advise any of the following:

- Office of the President
- Office of Institutional Effectiveness
- Office of Academic Affairs
- Office of Student Affairs
- Office of Human Resources
- Office of Intercollegiate Athletics

The individual charging the discrimination and/or harassment (complainant) will be given a copy of this policy and advised to make a written complaint to the “Title IX Coordinator” (see College website for contact information for the person currently designated as Title IX Coordinator).

The written complaint should set forth the discriminatory and/or harassing conduct

complained of and identify the alleged perpetrator (respondent). Where possible, it should set forth dates, identify other individuals who have knowledge of the conduct, and set forth the relief sought by the complainant.

The written complaint should normally be filed within thirty (30) calendar days of the alleged discriminatory and/or harassing conduct. This deadline will be waived for good cause.

Anonymous reporting is allowed where special circumstances exist, as determined by Human Resources, but is discouraged.

B. Initial Investigation

The Title IX Coordinator, upon receiving the written complaint, will assign an appropriate individual to investigate. Care should be taken that the individual assigned to investigate the complaint does not have any conflict with the complainant or the subject of the investigation (respondent). The individual assigned to investigate the complaint will begin an investigation of the charges, contacting witnesses and gathering materials, and developing a confidential file. Within ten (10) working days of the filing of the written complaint, the person assigned to investigate will provide the Respondent with a copy of this policy and discuss the complaint confidentially with him/her. During this phase, the identity of the complainant should be kept confidential to the extent reasonably possible.

Upon completion of the investigation, the investigator will submit a report to the Title IX Coordinator, with recommendations, who shall make a determination as to whether or not grounds for the complaint exist. At this stage, the standard for making that determination shall be that the evidence presented establishes a prima facie case. If the Title IX Coordinator determines that a prima facie case for the complaint does not exist, the complaint shall be dismissed and the complainant and respondent shall be so advised in writing. If the Title IX Coordinator determines the grounds for the complaint exist, the Title IX Coordinator must provide the complainant with a full explanation of available enforcement options for satisfaction or resolution of the complaint. This discussion should normally be completed within ten (10) working days of the Title IX Coordinator making a determination that grounds for the complaint exist and in any case not later than thirty (30) days after the complaint is submitted. The Title IX Coordinator shall also advise appropriate campus officials of the determination with due consideration to confidentiality and privacy requirements.

C. Enforcement Options

Enforcement options include the following:

1. Where the goal of the claimant is to stop the discriminating and/or harassing conduct and avoid formal procedures and charges, the Title IX Coordinator will proceed to mediation and conciliation. In any mediation/conciliation meetings, the Title IX Coordinator will be accompanied by at least one other staff or faculty member of appropriate gender.
2. Where the goal of the claimant is a vindication of rights and application of formal sanctions, the Title IX Coordinator will forward the complaint and investigation file to the appropriate individual(s) and initiate the procedure for formal charges.

D. Mediation and Conciliation

Discrimination and harassment are not always clearly identifiable acts that are known to be offensive by all parties. This can be the subtle accumulation of behaviors that create an unwelcome climate in a classroom, office or campus area. The formal charge of discrimination and/or harassment is also accompanied by considerable emotional and career injury to all parties involved. In an effort to prevent behaviors which individually may not constitute an illegal act from developing into grounds for formal complaint, Newberry College encourages persons subjected to perceived discriminatory and/or harassing behavior to consider pursuing mediation and conciliation when appropriate. When the goal of the complainant is to stop the behavior rather than seek a vindication of his/her rights, mediation and conciliation is the appropriate outcome. With the permission of the complainant, the Title IX Coordinator should speak to the alleged perpetrator (respondent) to achieve the following outcomes:

Make the respondent aware that his/her behavior is being perceived as discriminating and/or harassing and make clear that the behavior is prohibited by law and institutional policy.

Make the respondent aware that the purpose of this discussion is to achieve a change in behavior, not to pursue formal charges of disciplinary action.

Make clear that law and policy forbid any retaliation against the complainant by the respondent.

Suggest possible resolutions of the problem, including but not limited to; a change in the offensive behavior, an apology to the offended party, a reevaluation of a grade, a change in the relationship between the complainant and respondent (i.e., changed advisor, class enrollment, or housing unit).

Make the respondent aware that the file of this complaint and its outcome will be kept in the appropriate office.

Should mediation and conciliation fail to satisfactorily resolve the matter, the

complainant may proceed to file a formal complaint.

E. Filing of Formal Complaint

Should the complainant choose to file a formal complaint or should the mediation and conciliation fail to resolve the matter, the written complaint and the confidential investigation file with the Title IX Coordinator's written findings and conclusions will be reported to the appropriate individuals. The reporting relationships include: faculty complaints are reported to the VP of Academic Affairs, complaints against staff are reported to the VP for Business Affairs, complaints against students are reported to the Dean of Student Affairs, complaints against coaches or athletic staff are reported to the VP of Intercollegiate Athletics. Should the charges be made against a VP, the President should appoint a President's Council member to consider the matter. Should the charges be made against the President, the Chairman of the Board of Trustees shall appoint a President's Council member to consider the matter. The respondent must be provided a copy of the complaint and given an opportunity to respond in writing to the charges. This written response to the complaint should be completed within ten (10) days of the respondent receiving the complaint.

The individual charged with considering the matter may conduct an investigation, the scope and nature of which shall be appropriate to the circumstances as determined by the person charged with considering the matter.

Upon completing their consideration of the matter, the person so charged shall make a determination as to whether or not the grounds for the complaint exist. At this stage, the standard for making the determination shall be by a preponderance of the evidence. If the person charged with considering the matter determines that sufficient grounds for the complaint do not exist, the complaint shall be dismissed and the parties shall be so advised in writing. If the person charged with considering the matter determines that grounds for the complaint exist, the person shall impose the appropriate disciplinary action to be taken. Such disciplinary action may include, but is not limited to: a written warning; letter of reprimand; suspension, probation or expulsion; suspension of salary raises for a specified time; change of job (removing the person from being in a position to retaliate or further affect the victim); required counseling; requiring attendance at discrimination/harassment training program; termination of employment. The findings and recommended discipline shall be in writing.

It is expected that this determination shall take place within twenty (20) working days of the formal complaint having been filed.

Both the complainant and the respondent will be notified in writing as to the decision regarding disciplinary action.

IV. Appeal Procedure

A. Appeal

The respondent may appeal a formal disciplinary finding or disciplinary

sanction. An appeal may be based on denial of fairness, new evidence, or disciplinary recommendation. Appeals must state the reason for the appeal and must be presented in writing within seven (7) working days after receiving the decision on the formal complaint. A written appeal should be delivered to the office of the President. The disciplinary sanction will remain in place during the appeal.

B. Final Appeal

The President may conduct an investigation, the scope and nature of which shall be appropriate to the circumstances determined by the President in considering the appeal.

The President, upon completing consideration of the appeal, will make a written finding either upholding, reversing, or modifying the formal disciplinary finding and/or disciplinary sanction. The President's decision shall be in writing and shall be final.

It is expected that the appeal determination shall take place within twenty (20) working days of the appeal having been filed.

Both the complainant and the respondent will be notified in writing as to the President's decision regarding the appeal.

Should the charges be made against the President, the appeal should be to the Chairman of the Board of Trustees, who shall appoint a President's Council member to consider the appeal.

V. General Guiding Principles

A. Confidentiality

All communications from the time the complaint is filed shall be kept confidential to the extent reasonably possible.

B. Retaliation

Retaliation against the person bringing the complaint is forbidden by Newberry College; however, the persons charging discrimination and/or harassment need to be aware that false claims may subject them to legal consequences.

C. Confrontation

At no time during the initial investigation will the complainant and/or respondent be brought together.

D. Timeliness

All complaints, investigation, disciplinary action and appeals shall be conducted promptly within the stated guidelines, unless good cause is shown requiring an extension.

E. Tenured Faculty

In the case of a tenured faculty member who is recommended for

termination, the case must then proceed through the procedures for termination of tenure specified in the Faculty Policies Manual.

VI. HAZING

Newberry College students as individuals or members of registered student organizations are expressly prohibited from engaging in “hazing”. Hazing is defined as “subjecting student(s) to abusive or humiliating actions, tricks or ridicule.” Newberry College prohibits hazing in all its forms. Students, fraternity or sorority members who feel they have been physically hazed, advisors, or faculty advisors who have information regarding a hazing incident should report this activity to the Office of Student Activities. Investigations of complaints involving physical hazing will be taken to resolve complaints without fear of reprisal against the individual filing such a complaint. Corrective action will be taken in accordance with established College policies and procedures should evidence be produced to support the claim during the investigation.

Members who feel they have been mentally hazed, harassed, ridiculed, or asked to participate in any activity which violates their religious or moral beliefs should express their concerns to their Big Brother/Sister or Officer. Once notified, the fraternity or sorority must submit a written report of the incident to the Office of Student Activities, along with any disciplinary action taken against members found violating the College hazing policy.

Organizations are responsible for and will be held accountable for the actions of one or more of their members involved in a hazing incident. The degree of responsibility of organizations may be lessened or heightened by the manner and actions taken by an organization following an incident. Greek organizations found in violation of the College hazing policy will be disciplined by the College. Sanctions levied against an organization may include a warning, reprimand, disciplinary probation, suspension, and forfeiture. In addition, the organization may face criminal charges, as defined under the South Carolina Code, and civil action.

VII. MISSING STUDENT NOTIFICATION POLICY AND PROCEDURE

Under the Higher Education Opportunity Act, Newberry College is required to establish the following policy and procedures for student living on campus in the residence halls or college owned or operated houses.

Each student living in an on-campus student housing facility has the option to register a confidential contact person to be notified in the case the student is determined to be missing and the only authorized campus officials and law enforcement officers in furtherance of a missing person investigation may have access to this information. Please note that even if the student does not register a contact person, Newberry College will contact the local law enforcement that the student is missing. The College will notify a parent or guardian of student who is less than 18 years of age and not emancipated.

General Procedure

The Newberry College official receiving the report will collect and document the following information at the time of the report:

- a. The name and relationship of the person making the report.
- b. The date, time and location the missing student was last seen.

- c. The general routine or habits of the suspected missing student (e.g. –visiting friends who live off-campus, working a job away from campus) including any recent changes in behavior or demeanor.
- d. The missing student’s cell phone number (if known by the reporter).

The Newberry College official receiving the report will contact the Resident Life staff member on duty and the Dean of Students in order to update them on the situation and to receive additional consultation. The Dean of Students will ascertain if/when other members of the college’s administration need to be contacted. Upon notification from any entity that a student may be missing, Newberry College may use any or all of the following resources to assist in locating the student:

- a. Go to the student’s residence hall room,
- b. Talk to the student’s RA, roommate, and floor mates to see if anyone can confirm the missing student’s whereabouts and/or confirm the date, time, and location the student was last seen.
- c. Secure a current student ID from the Office of Student Affairs or other photo of the student from a friend.
- d. Call and text the student’s cell phone and call any other numbers on record.
- e. Send the student an email.
- f. Check all possible locations mentioned by the parties above including, but not limited to, library, residence hall lounges, Kaufmann Hall, etc. The Campus Security Department and the Office of Residence Life may be asked to assist in order to expedite the search process.
- g. Contact or call any other on-campus or off-campus friends or contacts that are made known.
- h. Ascertain the student’s car make, model and license plate number. A member of Campus Security will also check all college parking lots for the presence of the student’s vehicle.

The Newberry College Campus Technology Staff may be asked to obtain email logs in order to determine the last log in and/or access of the Newberry network. Once all information is collected and documented and the Dean of Students (or her designee) is consulted, Newberry College staff may contact the local police to report the information. (Note: If in the course of gathering information as described above, foul play is evident or strongly indicated, the police can be contacted immediately.)

WHAT TO DO IF YOU HAVE BEEN SEXUALLY ASSAULTED

- 1.** Contact the Director of Security on campus at 803-321-5602 or go to the Newberry County Memorial Hospital Emergency Room (located down Evans Street from the College) immediately following the incident or as soon as possible. If you cannot get there on your own, contact 911 for an ambulance. You will receive confidential treatment and information regarding your rights at the Emergency Room. You will also be able to preserve evidence for the future, if deciding to press legal charges.
- 2.** If you do not desire to go to the emergency room it is recommended that you contact Sexual Trauma Services of the Midlands@ 800-491-7273 accessible 24-7. Sexual Trauma Services provides confidential counseling and legal advocacy free of charge.
- 3.** Contact the licensed mental health counselor on campus following either of the above or in cases where neither of the above recommendations are followed. The contact person for counseling services on campus is Martha Dorrell LISW-CP who can be reached at 803-321-5373 or e-mail martha.dorrell@newberry.edu. Through the Newberry College Counseling Services office, students are able to explore options, receive confidential treatment, and referrals for additional support services as desired.
- 4.** If you desire to report and/or press charges, with permission from you, the counselor will contact the Director of Security and the Dean of Students. If you desires to speak only to the Newberry County Police, with your permission, the counselor will assist you in contacting the Newberry County Police Department. You will also meet with the sexual assault advocate within the Newberry County Police Department and be referred to Sexual Trauma Services of the Midlands for additional assistance. If you do not desire to report or press charges, but would like more information on additional counseling beyond the Newberry College campus, and/or legal advocacy, the Newberry College Counselor will refer you to Sexual Trauma Services of the Midlands at 803-790-8208.

FURTHER REPORTING GUIDELINES

If the student reports a sexual assault to other College faculty or staff, including student staff members, that person is obligated by federal legislation, including the Campus Security Act, to report the incident to Public Safety. We strongly recommend reporting a sexual assault to a College representative. Reporting is the only way the College can take action against the alleged perpetrator. A College representative is any faculty or staff member, including student staff, RA, professor, coach or work study supervisor. These individuals can refer you to the counseling, personal and legal resources available to you, and are obligated by federal legislation under the Campus Security Act to report an assault to Campus Security. You may also choose to contact Public Safety or the City of Newberry Police Department directly.

Once a sexual assault is reported, Campus Security is obligated to contact the victim for a statement and possibly to conduct an investigation. Because sexual assault is a crime under South Carolina law, Campus Security may notify the City of Newberry Police Department to assist with subsequent investigation. However, the victim has the right to make a handwritten statement to Campus Security stating that they choose not to have the police involved.

In cases of perceived danger, the College is obligated to make a public statement to alert the campus community. Any public statement to the campus to alert and protect the community

from imminent

Anyone who has been sexually assaulted has the right to pursue legal and disciplinary remedies and to secure counseling services. This includes the right to pursue College judicial action, criminal prosecution and/or civil litigation. Please see the Code of Student Conduct section in this handbook for details on the campus judicial process. Electing to pursue judicial action through the College does not commit the victim to pursue criminal or civil action, or vice versa. A victim also has the right to take no action. Should a victim wish to pursue criminal prosecution and/or civil litigation, the Department of Campus Security can provide assistance and information.