Discrimination and Harassment Policy

Policy Against Discrimination and Harassment of Barnard College

Notice of Non-Discrimination

In compliance with Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act of 1975 and other federal, state and local laws, and in accordance with our values, Barnard College does not discriminate on the basis of race, color, religion, creed, national or ethnic origin, sexual orientation, age or disability in the administration of any of its educational programs and activities or in its employment practices.

In addition, Barnard College does not discriminate on the basis of alienage or citizenship status, gender (including gender identity), marital partnership status, military status, predisposing genetic characteristics or domestic violence victim status in its employment practices.

Finally, in accordance with Title IX of the Education Amendments of 1972, Barnard College does not discriminate on the basis of sex in its educational programs and activities or in its employment practices.

Barnard College has designated the Associate Dean for Equity to handle all inquiries regarding its efforts to comply with and carry out its responsibilities under these laws. The Associate Dean for Equity may be contacted as follows:

Amy Zavadil
Associate Dean for Equity
Title IX Coordinator/504/ADA & Age Act Coordinator
105 Milbank Hall
(212) 854-0037
azavadil@barnard.edu

Inquiries concerning the application of Title IX, Title VI, Section 504, the ADA, and the Age Act may also be directed to:

U.S. Department of Education
Office for Civil Rights
New York—Region II
32 Old Slip, 26th Floor
New York, NY 10005
Telephone: (646) 428-3800
Email: OCR.NewYork@ed.gov

Policy Against Discrimination and Harassment of Barnard College

Barnard College is guided by the precept that in no aspect of its employment practices or educational programs and activities should there be unlawful discrimination against persons based on the characteristics described above. This policy is intended to further the goal that faculty, staff and students are to be able to work and study free from harassment by any member of the College community.

Barnard College is committed to providing an environment free from unlawful discrimination, harassment, or retaliation. As such, the College does not tolerate and specifically prohibits any kind of unlawful discrimination or harassment, which includes gender-based discrimination or harassment, sexual assault, domestic violence, dating violence, stalking, and sexual harassment by a member of the College community. The College takes prompt and appropriate action to address such conduct, end a hostile environment if one has been created, and prevent the recurrence of a hostile environment. The College provides prevention education programs; connection to on campus and off campus services and resources for individuals who have been impacted by gender-based and sexual misconduct; and equitable investigative and grievance processes that are accessible, prompt, impartial and fair. Appropriate disciplinary action may be taken against those found to have engaged in discrimination or harassment, with sanction up to and including dismissal.

For the purposes of this document, the “College community” includes students, faculty and staff; prospective students and employment applicants; and visitors to and guests of the College.

Clear behavioral standards, important definitions, and descriptions of prohibited conduct are included in this policy. The complete Title IX Grievance Procedures for allegations of sexual or gender-based misconduct and Discrimination & Harassment Grievance Procedures can be found on the Barnard College website at barnard.edu/doc/titleix.

Definitions

Consent involves explicit communication. Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

- A sexual encounter is considered consensual when individuals each willingly and knowingly engage in sexual activity. Consent cannot be obtained through the use of coercion. Coercion is the use of pressure, manipulation, substances force and disregarding objections of another party to engage in sexual activity. Consent must be clearly and unambiguously communicated.
Discriminatory harassment includes but is not limited to: epithets or slurs; negative stereotypes; designating jokes; and display or circulation in the working, learning, or living environment (including electronic transmission) of written or graphic material.

Gender-Based Harassment includes acts of verbal, non-verbal, or physical aggression, intimidation, or hostility based on gender, gender identity, or gender stereotyping. Gender-based harassment can occur when an individual or group is harassed either for exhibiting stereotypical characteristics of a particular sex or failing to conform to stereotypical notions of masculinity or femininity.

Retaliation is any action to penalize, intimidate, harass, or take adverse action against a person who makes a report of discrimination or harassment, participates in an inquiry or investigation or otherwise asserts rights protected by non-discrimination laws.

Sexual Assault is any non-consensual intentional physical contact of a sexual nature, such as unwelcome physical contact with a person’s genitals, buttocks, or breasts, or any form of sexual intercourse without consent. Rape is a form of sexual assault. Sexual assault occurs when the act (non-consensual sexual contact or non-consensual sexual intercourse) is committed by: a) physical force, violence, threat, or intimidation; b) ignoring the objections or without the consent of another person; c) causing another's incapacitation through intoxication or impairment through the use of alcohol or other drugs; and/or d) taking advantage of another person's incapacitation by alcohol or drug use, disability, unconsciousness or helplessness which renders them unable to give consent. In accordance with New York State law, a person under the age of 17 lacks the capacity to give consent. (see also the definition of consent).

Sexual Exploitation is non-consensual sexual abuse or exploitation of another, such behavior that does not otherwise constitute another specifically defined behavior. Examples of sexual exploitation include, but are not limited to, non-consensual use of electronics to capture, reproduce or share images of a sexual nature without consent of parties involved, public indecency or exposing genitals to others without consent, or engaging in 'peeping' (observing another when privacy would be reasonably expected) without consent.

Sexual Harassment is unwelcome conduct of a sexual nature. Sexual assault and requests for sexual favors that affect educational or employment decisions constitute sexual harassment. Sexual harassment may also consist of unwelcome physical contact, requests for sexual favors, visual displays of degrading sexual images, sexually suggestive conduct, or remarks of a sexual nature. Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal (including print or electronic communication) or physical conduct 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 or admission to or participation in an academic program or College-sponsored activity; or
2. Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment status or academic standing; or

Domestic Violence comprises a broad range of behaviors focused on characteristics protected in this policy and applicable local, state and federal laws, where such conduct has the effect of denying or limiting one's ability to benefit from and fully participate in educational programs or activities or employment opportunities.

Dating Violence means violence by a person who has been in a romantic or intimate relationship with the complainant (victim). Whether there was such relationship will be gauged by its length, type, and frequency of interaction. Dating violence can be a single act or a pattern of behavior in relationships. The parties may be in short or long-term relationships (current or former) intended to provide some emotional/romantic and/or physical intimacy.

Discrimination occurs when one experiences negative or adverse conduct based on characteristics protected in this policy and applicable local, state and federal laws, where such conduct has the effect of denying or limiting one's ability to benefit from and fully participate in educational programs or activities or employment opportunities.

Domestic Violence includes assorted violent misdemeanor and felony offenses committed by the complainant’s current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

- Domestic violence can be a single act or a pattern of behavior in relationships. The parties may be in short or long-term relationships (current or former) intended to provide some emotional/romantic and/or physical intimacy.

Gender-Based Misconduct comprises a broad range of behaviors focused on sex and/or gender discrimination that may or may not be sexual in nature. Sexual harassment, sexual assault, sexual exploitation, gender-based harassment, domestic violence, dating violence and stalking are forms of gender-based misconduct under this policy. Misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship (current or former). Gender-based misconduct can be committed by men or by women, and it can occur between people of the same or different sex or gender identity.

Harassment is harassment on the basis of a protected classification, including harassment of an individual in connection with a stereotyped group characteristic, or because of that person's identification with a particular group. Such harassment is any conduct, verbal, nonverbal, or physical, on or off campus, that has the effect, because of its severity and/or persistence, of unreasonably interfering with an individual or group's educational or work performance or that creates an intimidating or hostile educational, work, or living environment.

- Consent to any one sexual act or prior sexual activity does not necessarily constitute consent to any other sexual act. Consent may be given initially but withdrawn at any time. When consent is withdrawn or can no longer be given, sexual activity must stop.
- One who is incapacitated (whether by alcohol or drug use, disability, unconsciousness, or is otherwise helpless) cannot consent to sexual activity. In this procedure, determining whether an individual was incapacitated may depend on the perspective of an objective and reasonable interpretation of events to consider whether a sober individual in the Respondent’s position could know or should have known that the Complainant was incapacitated.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's performance on the job or in the classroom; or
4. Such conduct has the purpose or effect of creating an intimidating or hostile work or study environment for an individual or group of individuals.

Sexual harassment can occur regardless of the relationship, position or respective sex of the parties, same sex harassment violates this policy. Harassment because of one's actual or perceived sexual orientation also constitutes a violation of this policy. Violation of this policy also includes harassment by a student of a faculty member or a subordinate employee of his/her supervisor.

Stalking means a course of conduct directed at a specific person that would cause a reasonable person to feel fear for her, his or others' safety or to suffer substantial emotional distress. Stalking involves repeated and continued harassment made against the expressed wishes of another individual, which causes the targeted individual to feel emotional distress, including fear and apprehension. Stalking behaviors may include: pursuing or following; non-consensual (unwanted) communication or contact - including face-to-face, telephone calls, voice messages, electronic messages, text messages, unwanted gifts, etc.; trespassing; and surveillance or other types of observation.

Allegations of harassment under this policy will be evaluated from the perspective of a reasonable person similarly situated to the complainant and considering all of the facts and circumstances. A single extreme incident or repeated incidents may constitute a finding of prohibited discrimination or harassment. Each matter will be evaluated individually.

Consensual Relationships and Sexual Harassment

Actual or apparent authority that employees may have over a student is a strong factor in finding that certain types of conduct constitute sexual harassment. This can be so even if a student has accepted the conduct, does not show signs of being harassed, or fails to file a complaint of harassment.

Consistent with the College's policy on sexual harassment, sexual harassment may exist within a consensual relationship when it is found to compromise the educational mission of the College. Complaints of sexual harassment of students, including alleged consensual relationships, will be carefully evaluated in the context of the unique relationship and responsibility that faculty, administrators, and other College employees have to students or employees.

Making a Report of Discrimination or Harassment

Any individual who experiences or observes discrimination or harassment involving a member of the College community is encouraged to make a report where the conduct occurs on campus or in a College-sponsored program, affects a College program or activity, or is carried out by a member of the College community. Reports should be made as soon as possible to one of the College staff persons identified below. In certain instances, the College may investigate allegations of discrimination or harassment based on information received from sources, such as newspaper accounts or anonymous letters or phone calls.

In all cases, before further action will be taken, the College will carefully consider the source and nature of the information received; the specificity of the information; the objectivity and credibility of the source of the report; whether it can identify individuals who were subjected to the alleged discrimination or harassment; and take into account whether those individuals want to pursue the matter. If there is sufficient reason to believe that a violation of this policy may have occurred, an investigation will commence.

When an allegation of policy violation is to be investigated, the process will be fair and impartial, implemented by trained investigator(s) and Adjudicator. Upon written notice to both parties of the outcome and sanctioning decision, if applicable, information about the appeals process will be provided. If an outcome or sanction is appealed by either party, the appeal will be heard by a trained, fair and impartial Appeals Officer or Panel.

Further information about rights and responsibilities of the parties can be found in the Title IX Grievance Procedures (http://barnard.edu/doc/titleix/procedures) for allegations of sexual or gender-based misconduct and in the General Grievance Procedures (http://barnard.edu/policy/discriminationandharassment) for allegations of discrimination or harassment other than sexual or gender-based misconduct.

A report can be made online at https://barnard-advocate.symplicity.com/public_report
If You Believe You Have Been Subject to Harassment or Discrimination

Individuals who believe they have experienced or observed discrimination or harassment may consult with the Associate Dean for Equity/Title IX Coordinator to discuss their concern or initiate a report in accordance with the information below:

<table>
<thead>
<tr>
<th>For Complaints Against:</th>
<th>Appropriate contact for complaints of: Sexual and Gender-Based Harassment and Discrimination Title IX Grievance Procedure</th>
<th>Appropriate contact for complaints of: Discrimination or Harassment (Other than sex and gender-based) Discrimination &amp; Harassment Grievance Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Students</td>
<td>Amy Zavadil, Associate Dean for Equity Title IX Coordinator Milbank Hall, 105 212-854-0037 <a href="mailto:azavadil@barnard.edu">azavadil@barnard.edu</a></td>
<td>Amy Zavadil, Associate Dean for Equity Title IX Coordinator Milbank Hall, 105 212-854-0037 <a href="mailto:azavadil@barnard.edu">azavadil@barnard.edu</a></td>
</tr>
<tr>
<td>Faculty and Staff (including Administrators)</td>
<td>Staff: Catherine Geddis, VP for Human Resources, 212-854-2551 <a href="mailto:cgeddis@barnard.edu">cgeddis@barnard.edu</a> or Faculty: Patricia Denison, Associate Provost, 212 854 2708, <a href="mailto:pdenison@barnard.edu">pdenison@barnard.edu</a></td>
<td>Staff: Catherine Geddis, VP for Human Resources 212-854-2551 <a href="mailto:cgeddis@barnard.edu">cgeddis@barnard.edu</a> or Faculty: Patricia Denison, Associate Provost, 212 854 2708, <a href="mailto:pdenison@barnard.edu">pdenison@barnard.edu</a></td>
</tr>
<tr>
<td>Unionized Employees</td>
<td>(in conjunction with Collective Bargaining Agreements, as appropriate) Catherine Geddis, VP for Human Resources</td>
<td>(in conjunction with Collective Bargaining Agreements, as appropriate) Catherine Geddis, VP for Human Resources</td>
</tr>
<tr>
<td>Columbia University Affiliates</td>
<td>Amy Zavadil, Associate Dean for Equity Title IX Coordinator Or directly to Columbia: <a href="http://eoaa.columbia.edu/student-policies">http://eoaa.columbia.edu/student-policies</a></td>
<td><a href="http://eoaa.columbia.edu/notice%20of%20non-discrimination">http://eoaa.columbia.edu/notice%20of%20non-discrimination</a></td>
</tr>
<tr>
<td>Third Parties</td>
<td>Catherine Geddis VP for Human Resources or Amy Zavadil, Associate Dean for Equity Title IX Coordinator</td>
<td>Catherine Geddis VP for Human Resources or Amy Zavadil, Associate Dean for Equity Title IX Coordinator</td>
</tr>
</tbody>
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Academic Freedom and Employment Responsibility

Under the College’s Code of Academic Freedom and Tenure “all officers of instruction and all officers of administration while giving instruction are entitled to freedom in the classroom in discussing their subjects and . . . they are entitled to freedom in research and in the publication of its results.” Similarly, students are encouraged to openly express their views and opinions.

While not all conduct can be shielded by claims of academic freedom or freedom of expression, the College is committed to encouraging meaningful, candid discussion in the classroom and in other academic settings and recognizes that there can be a tension between the need for frank and open discussion and the right of individuals to be free from injury caused by harassment.

Harassment must be distinguished from behavior that, even though unpleasant or disconcerting, is appropriate to the carrying out of certain instructional, advisory, or supervisory responsibilities of education or employment. Instructional responsibilities require appropriate latitude for pedagogical decisions concerning the topics discussed and methods used to draw students into discussion and full participation. Similarly, supervisory responsibilities require appropriate latitude for decisions concerning the methods of fulfilling institutional and work related obligations. Therefore, in determining whether alleged conduct constitutes harassment, it is necessary to examine all of the relevant information available, including the nature of the conduct and the context in which the alleged incidents occurred.

Duty to Report

Staff, faculty, and some student employees (e.g., Resident Assistants (RAs), Orientation Leaders) have a duty to report knowledge of alleged or observed incidents of discrimination or harassment to their supervisor and/or the Associate Dean for Equity/Title IX Coordinator upon learning such information. Reports should include the complainant’s name, location and description of the incident of discrimination or harassment to their supervisor and/or the Associate Dean for Equity/Title IX Coordinator upon learning such information. Reports should include the complainant’s name, location and description of the incident of discrimination or harassment. Any member of the community may consult with the Title IX Coordinator to review available information and determine applicable reporting obligations and/or available resources.

Public Awareness Events

The College supports engagement in public awareness events such as “Take Back the Night,” candlelight vigils, protests, speak outs, and other forums. These activities support and inform campus-wide education and prevention efforts. The disclosure of incidents of sex and gender-based misconduct at such events is not considered a report to the College for purposes of triggering an investigation of a particular incident.

Retaliation

Any attempt by a member of the Barnard College community to penalize, intimidate, harass, take adverse action against a person who makes a report of discrimination or harassment, participates in an investigation or otherwise asserts rights protected by non-discrimination laws is prohibited. Retaliation may be found even when the underlying report does not constitute discrimination or
harassment in violation of policy. Retaliation is an action taken to deter a reasonable person from opposing a discriminatory or harassing practice, and/or from pursuing his/her rights. Examples of adverse retaliatory action includes termination, denial of promotion or participation in otherwise qualified employment or educational opportunity, and an unjustified negative evaluation or reference. Retaliation does not include petty slights and annoyances such as isolated negative comments in an otherwise positive or neutral evaluation, snubbing of an individual, or negative comments that are justified by poor work or assignment performance or history. Employees who have filed a report or expressed opposition to discrimination or harassment are still expected to perform their job functions and follow workplace rules and responsibilities.

Any person who believes that he or she has experienced retaliation for reporting discrimination or harassment, participating in an investigation, or for acting as an advocate should immediately contact the Title IX Coordinator. The College takes such reports seriously, investigates reports of retaliation, and takes strong disciplinary action against individuals found to have engaged in retaliation, as appropriate. All members of the College community are expected to cooperate with investigations of violation of this policy. Any person who retaliates against a person in response to a report or cooperation in an investigation or for acting as an advocate will be in violation of this policy and will be subject to the appropriate discipline process.

**False Reports**

Any person who knowingly files a false claim of discrimination or harassment will be in violation of this policy and will be subject to the appropriate disciplinary process.

**Reporting of Crime Statistics**

In compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) the College records and reports certain information about campus safety, including the number of incidents of certain crimes on or near campus, some of which constitute sex and gender-based misconduct investigated under these procedures. The Title IX Coordinator works in collaboration with Public Safety to ensure such incidents are captured for statistical reporting purposes while protecting the identity of the victim of such crimes. These notifications may include the classification and location of the reported crime but do not identify the students involved. The Clery Act also requires the College to issue a “timely warning” when it receives a report of certain crimes that pose a serious or continuing threat to the community. The College may disclose aggregate information regarding incidents investigated and related outcomes. Such reports will not contain identifying information.

Policy effective as of August 2011; Modified as of January 2012, August 2012, November 2012; August 2013, August 2014; chart revised April 2015; August 2015