

## **EQUAL OPPORTUNITY AND NON-DISCRIMINATION POLICY**

### **I. Policy Statement:**

Carroll College is an equal opportunity employer, committed to compliance with state and federal anti-discrimination laws, including Title IX of the Education Amendments of 1972. Acts of discrimination, harassment, sexual misconduct, and retaliation are prohibited and will be addressed consistent with this policy.

It is important that members of the Carroll community understand that the law does not just prohibit discrimination and harassment of employees by employers. The law also prohibits discrimination and harassment between members of the Carroll community more generally, such as between an instructor and a student, between two students, or between a campus guest or vendor and an employee. In addition, the law prohibits retaliation against an individual for opposing any practices forbidden under this policy, for bringing a complaint of discrimination or harassment, for assisting someone with such a complaint, for attempting to stop such discrimination or harassment, or for participating in any manner in an investigation or resolution of a complaint of discrimination or harassment. Any individual who believes he or she may have been subject to unlawful discrimination or harassment should feel free to report their concerns for appropriate investigation and response, without fear of retaliation.

Information regarding how to report unlawful discrimination or harassment can be found in the Equal Opportunity and Non-Discrimination Grievance Policy, Code of Student Conduct Procedures, and the Title IX Grievance Procedures policy.

### **II. Academic Freedom**

This policy shall not be construed to infringe on the academic freedom of members of the Carroll community and their right to use the academic forum provided by Carroll either to discuss controversial subjects or to express ideas with which some or most members of the Carroll community strongly disagree. The principles of academic freedom are more fully described in Article V, Section 6 of the Faculty Handbook as well as in section 29 and footnote 15 of the Apostolic Constitution *Ex Corde Ecclesiae*.

Title IX and this policy protect students and employees from sex discrimination; they do not regulate the content of speech. Carroll College and the Office for Civil Rights recognize that the offensiveness of a particular expression as perceived by some employees or students, standing alone, is not a legally sufficient basis to establish a hostile environment under Title IX or this policy. Neither Title IX nor this policy require, prohibit, or abridge the use of particular textbooks or curricular materials.

### **III. Discrimination**

Carroll College prohibits unlawful discrimination in employment and education programs and activities on the basis of race, color, national origin, age, physical or mental disability, marital status, gender identity, sexual orientation, creed, religion, or sex. In the case of religion and creed, distinctions may be appropriate under state and federal constitutional provisions due to the religious character and Catholic identity of Carroll College and the nature of the particular employment position at issue.

### **IV. Retaliation**

Carroll College prohibits retaliation against an individual for opposing any practices forbidden under this policy, for bringing a complaint of discrimination or harassment, for assisting someone with such a complaint, for attempting to stop such discrimination or harassment, or for participating in any manner in an investigation or resolution of a complaint of discrimination or harassment. It is central to the values of Carroll College that any individual who believes they may have been the target of unlawful discrimination or harassment feel free to report their concerns for appropriate investigation and response, without fear of retaliation or retribution.

### **V. Discriminatory Harassment**

Harassment is a form of misconduct that can be demeaning to another person, and is strictly prohibited. It is the policy of the college to prohibit harassment of its employees and students by anyone, including faculty, staff, students, and vendors or other non-employees, on the basis of sex, race, creed, color, national origin, religion, age, marital status, gender identity, sexual orientation, or physical or mental disability.

Harassing behavior may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be humiliating or physically threatening or harmful.

## VI. Sexual Harassment

Under the Carroll College Title IX Policy and this policy, the definition of Sexual Harassment, as an umbrella category, includes sexual harassment, sexual assault, domestic violence, dating violence, and stalking as described below.

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

A Carroll College employee conditioning the provision of an educational aid, benefit or service of Carroll College upon a person's participation in unwelcome sexual conduct.

Unwelcome conduct determined by a reasonable person to be so severe, and pervasive, and objectively offensive that it effectively denies a person equal access to Carroll College's education program or activity.

Sexual Exploitation is any instance in which a person takes non-consensual or abusive sexual advantage of another for any person's benefit other than the person being exploited. Sexual Exploitation is conduct that falls within other categories of Sexual Harassment but is identified separately for clarity. Examples of behavior that could rise to the level of Sexual Exploitation include:

- Prostituting another person;
- Non-consensual visual (e.g., video, photograph) or audio-recording of sexual activity;
- Non-consensual distribution of photos, other images, or information of an individual's sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information;
- Going beyond the bounds of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- Inducing incapacitation for sexual purposes;
- Engaging in non-consensual voyeurism;
- Knowingly transmitting an STI, such as HIV, to another without disclosing your STI status;
- Exposing one's genitals in non-consensual circumstances, or inducing another to expose their genitals; or
- Possessing, distributing, viewing, or forcing others to view illegal pornography.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual assault, dating violence, domestic violence or stalking as those offenses are defined in the Clery Act, 20 U.S.C. § 1092(f), and the Violence Against Women Act, 34 U.S.C. § 12291(a) and are summarized below.

Sexual assault: Sexual acts, including sexual intercourse, directed against another person without that person's consent, including instances in which a person is incapable of giving consent; incest; and sexual intercourse with a person who is under the statutory age of consent of 16 years old.

Dating Violence: Dating means violence committed by a person—

who is or has been in a social relationship of a romantic or intimate nature with the victim; and

where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) The length of the relationship.
- (ii) The type of relationship.
- (iii) The frequency of interaction between the persons involved in the relationship.

Domestic Violence: Violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety, or the safety of others, or suffer substantial emotional distress.

Complaints which allege Sexual Harassment as defined above within the jurisdiction of the Carroll College Title IX Policy will be processed under the Title IX Grievance Procedures. Complaints which allege Sexual Harassment as defined above that are not within the jurisdiction of the Carroll College Title IX Policy will be subject to resolution under the Carroll College Equal Opportunity and Nondiscrimination Policy.

## **VII. Employee Reporting**

In order to enable Carroll College to respond effectively, proactively, and to stop instances of discrimination and sexual harassment at the College, all College employees must report as soon as feasibly possible information they have about alleged or possible discrimination and sexual harassment to the Equal Opportunity and Non-Discrimination Officer or a Title IX Coordinator. Employees who are statutorily prohibited from reporting such information are exempt from these reporting requirements, including licensed healthcare professionals, priests who receive information under the seal of confession, and victim advocates.

Any supervisor who becomes aware of possible harassment or discrimination in the workplace must promptly advise the Equal Opportunity and Non-Discrimination Officer. Failure to provide this notification may result in disciplinary action, up to and including termination.

### **VIII. Assistance and Support**

Carroll College's Victim Advocate, HR Director/Title IX Coordinator, and Dean of Students & Retention/Title IX Coordinator are available to help employees and students who are victims of sexual harassment identify appropriate resources for counseling, mental health services, and medical services. The HR Director/Title IX Coordinator and Dean of Students & Retention/Title IX Coordinator are also available to discuss and coordinate possible interim measures to address harassment or discrimination, such as changes in work situations, reporting relationships, or work location.

Violations of this policy will be addressed through the Equal Opportunity and Non-Discrimination Grievance Procedure for alleged employee violations in the context of Carroll College employment. Violations of this policy will be addressed through the Student Code of Conduct Procedures for alleged violations by students in the context of their student status. The Equal Opportunity and Non-Discrimination Grievance Procedure is in lieu of and not in addition to any disciplinary procedures described in the Staff and Faculty Handbooks, including but not limited to Article V, Section 9 of the Faculty Handbook; or the procedures described in Article V, Section 6.26 of the Faculty Handbook, Code of Student Conduct, Conduct Code Procedures, Interim Title IX Policy and Interim Title IX Grievance Procedures.

### **IX. Jurisdiction**

Complaints alleging violations of the Equal Opportunity and Nondiscrimination Policy will be addressed through the Equal Opportunity and Nondiscrimination Grievance Procedures. Complaints alleging violations of the Title IX Policy and within the jurisdiction of the Title IX policy will be addressed through the Title IX grievance procedures. Complaints which allege Sexual Harassment that are not within the jurisdiction of the Carroll College Title IX Policy may be subject to resolution under the Equal Opportunity and Nondiscrimination Policy.

The Equal Opportunity and Nondiscrimination Grievance Procedures and the Title IX Grievance Procedures are in lieu of and not in addition to any disciplinary procedures described in the Staff and Faculty Handbooks, including but not limited to Article V, Section 9 of the Faculty Handbook; or the procedures described in Article V, Section 6.26 of the Faculty Handbook.

### **X. Sanctions and Corrective Action**

Consequences for violating this policy will depend on the facts and circumstances of each particular situation, including the frequency and severity of the offense and any history of past discriminatory, harassing, or retaliatory conduct. A finding that this policy was violated may be cause for disciplinary action such as corrective counseling, verbal warning, written reprimand, loss of privileges, discretionary sanctions, suspension, disciplinary demotion, suspension, expulsion, or termination. In addition, Carroll College may take other action, such as reassignment; a no-contact order; or relocation of office or parking space. Carroll College may

also take appropriate action if it does not find discrimination or harassment that creates a hostile environment or results in a tangible employment action, but (a) the College found that the individual engaged in disruptive behavior; or (b) action is necessary to prevent the creation of a hostile environment.