

EQUAL OPPORTUNITY POLICY

Discrimination and Sexual Harassment,

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 Grievance Policy, Code of Student Conduct Procedures, and the Interim 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

Preliminary Interim Policy

Approved by the Executive Committee of the Board of Trustees - 08/13/2020

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. 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.

A. Sexual Harassment

Sexual harassment means any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature. Sexual harassment can involve persons of the same or opposite sex.

The following are examples of conduct that may constitute sexual harassment:

1. Sexual advances which are unwelcome (this may include situations which began as a reciprocal attraction but later ceased to be reciprocal);
2. Sexual gestures;
3. Graphic verbal comments of a sexual nature, including such comments about a person's body, or sexually degrading words used to describe an individual;
4. Displaying sexually suggestive objects, pictures, cartoons, or posters;
5. Verbal abuse of a sexual nature, sexually oriented jokes, innuendoes, obscenities, or sexually suggestive letters, notes or invitations;
6. Reprisals or threats after a negative response to sexual advances;
7. ;
8. Physical conduct such as impeding or blocking movements, or unwelcome touching.

Preliminary Interim Policy

Approved by the Executive Committee of the Board of Trustees - 08/13/2020

Consistent with the law, this policy prohibits hostile environment harassment.

Hostile Environment Harassment

A hostile environment exists when harassment based on sex, race, creed, color, national origin, religion, age, marital status, gender identity, sexual orientation, or physical or mental disability:

- Is sufficiently serious (i.e., severe, *or* pervasive, or persistent) and objectively offensive so as to alter the terms and conditions of employment;
- Is sufficiently serious (i.e., severe, *or* pervasive, or persistent) and objectively offensive so as to interfere with or limit a student's ability to participate in or to receive benefits, services, or opportunities at Carroll; or
- When such conduct has the purpose or effect of unreasonably interfering with an individual's employment or education program or activity.

Harassment that creates a hostile environment violates this policy.

A hostile environment can be created by anyone involved in a college program or activity (e.g., administrators, faculty members, students, staff members, and campus visitors). Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a serious incident, even if isolated, can be sufficient.

In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive.

Also, the following factors will be considered:

- a. The degree to which the conduct affected the individual's employment or education;
- b. The nature, scope, frequency, duration, and location of incident or incidents;
- c. The identity, number and relationships of persons involved; and
- d. The nature of higher education.

B. Sexual Harassment – Title IX Policy

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Montana regard Sexual Harassment as an unlawful discriminatory practice.

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 Harassment as defined in Title IX regulations includes the actual or attempted offenses of sexual

Preliminary Interim Policy

Approved by the Executive Committee of the Board of Trustees - 08/13/2020

harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Any of the following conduct on the basis of sex constitutes sexual harassment under the Interim Title IX policy and must be referred to the Interim Title IX policy and Interim Title IX Grievance Procedures:

- 1) Quid Pro Quo Harassment: A Carroll College employee conditioning an educational benefit or service of Carroll College upon a person's participation in unwelcome sexual conduct.

Or

- 2) Sexual Harassment: 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.

OR

- 3) 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).
 - a. Sexual assault
 - b. Dating Violence
 - c. Domestic Violence
 - d. Stalking

Policy violations meeting the above definitions are not violations in the Equal Opportunity policy. For violations described in Title IX, reference the Interim Title IX Policy and Interim Title IX Grievance Procedures.

VI. 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 Officer or a Title IX Co-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 Officer. Failure to provide this notification may result in disciplinary action, up to and including termination.

VII. Assistance and Support

Carroll College's Victim Advocate, the Equal Opportunity Officer/Title IX Co-Coordinator, and Dean of Students & Retention/Title IX Co-Coordinator are available to help employees and students who are

Preliminary Interim Policy

Approved by the Executive Committee of the Board of Trustees - 08/13/2020

victims of sexual harassment identify appropriate resources for counseling, mental health services, and medical services. The Equal Opportunity Officer/Title IX Co-Coordinator and Dean of Students & Retention/Title IX Co-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 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 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.

VIII. 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.