

4.034 Sexual and Other Harassment (Revised 12/17/13)

Harassment of any kind is not acceptable at Highland Community College whether it is sexual harassment or on the basis of age, color, disability, ethnic or national origin, gender, race, religion or sexual orientation, or any other legally protected classification. Highland Community College is committed to respecting all individuals. Highland Community College is also committed to the free and dynamic discussion of ideas and issues.

This policy against harassment shall be applied in a manner that protects the academic freedom and freedom of expression of all parties to a complaint. Academic freedom and freedom of expression include but are not limited to the expression of ideas in the classroom. Instructional freedom will include appropriate latitude for pedagogical decisions concerning the topics discussed and methods used to draw students into discussion and full participation. Classroom discussion of alternative ideas or controversial points of view on related topics shall not be considered harassment.

Sexual Harassment:

College employees, students, and third persons are prohibited from sexually harassing other employees, students, or third persons. For purposes of this policy, third persons include any person other than College employees and students, on College property, at any College-sponsored activities or at any activity which bears a reasonable relationship to the College. Sexual harassment is illegal under both state and federal law and objectionable under any circumstance.

Definitions of Sexual Harassment:

1. In the case of sexual harassment of an employee by another employee or third person, sexual harassment means:
  - a. Any unwelcome sexual advances toward an employee; or
  - b. Any request by an employee or third person to an employee for sexual favors; or
  - c. Any conduct of a sexual nature or any verbal, written, visual, or physical conduct based on sex when:
    - (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
    - (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
    - (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive environment.

2. In the case of sexual harassment of a student by an employee or third person, sexual harassment means:  
Any sexual advance by an employee or third person toward a student; or
  - a. Any request by an employee or third person to a student for sexual favors; or
  - b. Any acceptance by an employee or third person of a sexual advance or request for sexual favors from a student; or
  - c. Any conduct of a sexual nature or any verbal, written, visual, or physical conduct based on sex by an employee or third person directed toward a student when:
    - (1) the student's submission to such conduct is either explicitly or implicitly a term or condition of the student's grade or the student's participation in any College-sponsored activity; or
    - (2) submission to or rejection of such conduct by a student is used as the basis for decisions concerning the student's grade or the student's participation in any College-sponsored activity; or
    - (3) such conduct has the purpose or effect of unreasonably interfering with a student's performance or creating an intimidating, hostile or offensive collegiate environment.
3. In the case of sexual harassment of a student or employee by a student, sexual harassment means:
  - a. Any sexual advance by a student toward an employee; or
  - b. Any request by a student to an employee for sexual favors from the employee; or
  - c. Any conduct of a sexual nature or any verbal, written, visual, or physical conduct based on sex by a student directed toward an employee when such conduct has the purpose or effect:
    - (1) of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive environment, or
    - (2) of influencing either the student's grade or participation in any College-sponsored activity; or
  - d. Any conduct of a sexual nature or any verbal, written, visual, or physical conduct based on sex by a student directed toward another student when:
    - (1) such conduct has the purpose or effect of creating a Collegiate environment that is intimidating, hostile or offensive, or
    - (2) such conduct is continued by the student after the request of the other student to stop such conduct because it is intimidating, hostile or offensive to the other student. The determination of whether the conduct of a student is intimidating, hostile or offensive is made by the College administration.
4. In the case of sexual harassment of a third person by an employee or student, sexual harassment means:

- a. Any unwelcome sexual advances by an employee or student toward a third person; or
  - b. Any request by an employee or student for sexual favors from the third person; or
  - c. Any conduct of a sexual nature or any verbal, written, visual or physical conduct based on sex when:
    - (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's participation in a College-related activity, or
    - (2) submission to or rejection of such conduct by an individual is used as the basis for decisions concerning the individual's participation in a College-related activity, or
    - (3) such conduct has the purpose or effect of unreasonably interfering with an individual's performance in a College-sponsored activity or creating a College environment that is intimidating, hostile or offensive. For purposes of this section, a College-related activity includes an activity on College grounds involving College facilities, staff or students, any College-sponsored activity and any activity which bears a reasonable relationship to the College.
5. Sexual harassment prohibited by this policy includes intentional and/or unwelcome verbal, written, visual, or physical conduct that tends to be severe or repetitive in nature. Some conduct obviously constitutes sexual harassment – such as a threat that a grade or promotion will depend on submission to a sexual advance. But whether particular conduct constitutes sexual harassment will often depend upon the specific context of the situation, including the participants' reasonable understanding of the situation, their past dealings with each other, the nature of their professional relationship (e.g., supervisor-subordinate, faculty-student, student-student, colleague, etc.) and the specific setting. The inquiry can be particularly complex in an academic community, where the free and open exchange of ideas and viewpoints preserved by the concept of academic freedom may sometimes prove distasteful, disturbing or offensive to some. Some examples of sexual harassment are:
- sexual advances
  - touching of a sexual nature
  - graffiti of a sexual nature
  - displaying or distributing sexually explicit drawings, pictures and written materials
  - sexual gestures
  - sexual or "dirty" jokes
  - pressure for sexual favors
  - touching oneself sexually or talking about one's sexual activity in front of others

- spreading rumors about or rating other individuals as to sexual activity or performance

The terms intimidating, hostile or offensive as used above include, but are not limited to, conduct which has the effect of humiliation, embarrassment or discomfort. Sexual harassment will be evaluated in the light of all of the circumstances.

Definition of Other Harassment:

Harassment is the creation of a hostile or intimidating environment in which verbal, written, visual or physical conduct, because of its severity and/or persistence, is likely to interfere unreasonably with an individual's work or education, such conduct being directed at an individual because of race, national origin, disability, age, religion, sexual orientation or other legally protected classification.

Internal Reporting Procedures:

It is the express policy of the College to encourage victims of sexual or other harassment to come forward with such claims. We encourage employees to report harassment to management before it becomes severe or pervasive. In order to conduct an immediate investigation, any incident of sexual or other harassment should be reported as quickly as possible, in confidence, as follows:

1. Employees:

Employees are encouraged to report any incidents of sexual or other harassment to the Associate Vice President of Human Resources (Affirmative Action Officer and Investigator). If the Associate Vice President of Human Resources is the offending person, the report should be made to the Director of Adult Education (Investigator) or the Associate Vice President of Student Services (Title IX Coordinator and Investigator) who will investigate the complaint. The investigator will meet with the complainant, the alleged offender, and any potential witnesses in order to investigate the complaint.

2. Students:

Students are encouraged to report any incidents of sexual or other harassment to the Associate Vice President of Student Services (Title IX Coordinator and Investigator). If the complaint involves the Associate Vice President of Student Services, the report should be made directly to the Director of Adult Education (Investigator) or the Associate Vice President of Human Resources (Affirmative Action Officer and Investigator) who will investigate the complaint. The investigator will meet with the complainant, the alleged offender, and any potential witnesses in order to investigate the complaint.

3. Third Persons:

Third persons are encouraged to report any incidents of sexual or other harassment to the Associate Vice President of Human Resources (Affirmative Action Officer and Investigator). If the Associate Vice President of Human Resources is the offending person, the report should be made to the Associate Vice President of Student Services (Title IX Coordinator and Investigator) or the Director of Adult Education (Investigator). The investigator will meet with the complainant, the alleged offender, and any potential witnesses in order to investigate the complaint.

Complaint and Investigation:

Any person who believes that he or she has been subjected to harassment prohibited by this policy or who becomes aware of conduct that may violate this policy should immediately report the harassment as follows:

1. An employee or third party who believes he/she has been harassed must file a written and signed complaint with the Associate Vice President of Human Resources (AAO) within 45 days of the date of the alleged event or incident. A student who believes he/she has been harassed must file a written and signed complaint with the Associate Vice President of Student Services (Title IX Coordinator) within 45 days of the date of the alleged event or incident.
2. The College may offer alternative dispute resolution (ADR) which shall be completed within 30 days from the receipt of the written complaint. ADR resolution will include:
  - a. Explanation of the rights and responsibilities of the aggrieved and the procedures for filing a complaint;
  - b. Review and determination of the legal basis of the issues being raised in the complaint;
  - c. Seeking resolution of the matter;
  - d. Documenting the resolution or advising the complainant of his/her right to file a formal complaint within 15 days after receipt of the ADR report;
  - e. Preparing a report on the ADR process.
3. If the conflict is not resolved during the ADR process:
  - a. The complainant must file a written and signed complaint within 15 days following receipt of the ADR report;
  - b. The written complaint must be sufficiently precise to:
    - i. identify the aggrieved individual;
    - ii. identify the agency or individuals responsible for the basis;
    - iii. identify the basis or bases of discrimination/harassment;
    - iv. describe the actions or practices deemed harassment and/or discriminatory.
  - c. The College must acknowledge receipt of the complaint in writing;

- d. The College will notify the complainant of the appeal process.
4. The College has the right to dismiss a complaint in its entirety for any of the following reasons:
  - a. The complainant fails to state a claim;
  - b. The claim is moot or under adjudication elsewhere;
  - c. The complainant failed to file the complaint within the time frame allotted;
  - d. The complainant cannot be located or has not responded to a request for relevant information if the record does not already contain sufficient information;
  - e. The complaint is part of a clear pattern of misuse of the process.
5. The investigation will include a written record of testimony; all testimony will be sworn; the investigating officer will be entitled to any and all College documents, recordings, emails or information requested by a Request for Information that may pertain to the investigation; and the investigating officer may extend the time of the investigation by up to 30 days if necessary to complete the investigation.
6. The College President or designee shall be informed of every written reported incident of sexual or other harassment.

Confidentiality:

A reasonable effort will be made to promptly investigate any allegation of sexual or other harassment in a confidential manner to the extent appropriate or required by law. All parties participating in the investigation will treat all documents and conversations as confidential. Breaches of confidentiality may be subject to disciplinary action. Requests not to investigate complaints cannot be honored.

Written Report:

Within ten school days or “a reasonable time” from the date the written complaint was received, the investigator(s) will produce a report on the investigation to the College President or designee, or the Chair of the College’s Board of Trustees if the College President is the offending person, which will include at a minimum the following:

1. the date the complaint was received;
2. the complainant’s name;
3. the name of each alleged offender and a description of all conduct that gave rise to the complaint (written, signed statements by complainants describing relevant events should be obtained whenever possible);

4. a statement detailing the alleged offender's response to the allegations (written, signed statements by the alleged offender should be obtained whenever possible);
5. a statement detailing the scope of the investigation undertaken, including the names of all witnesses interviewed and the results of the interviews.

Within five school days or "a reasonable time" after the written report is completed, the College President, or the Chair of the Board of Trustees if the College President is the offending person, will evaluate the report of the investigator(s) to determine the validity of the complaint. If a complaint is found to be valid, disciplinary action appropriate to the action will be taken. This is not a legal proceeding, so the College will not award any compensation to a victim of harassment.

#### Disciplinary Action:

1. Any College employee who is determined, after an investigation, to have engaged in sexual or other harassment in violation of this policy will be subject to disciplinary action up to and including discharge, consistent with: (a) established disciplinary procedure as outlined in the myHCC Staff portal if the employee is an administrative, or classified employee, or a part-time faculty, or (b) contractual rights and obligations as outlined in the collective bargaining agreement with the HCC Faculty Senate Local 1957 up to and including arbitration if the employee is a faculty member covered by such agreement, or (c) contractual rights and obligations as outlined in the collective bargaining agreement with the HCC Custodial and Maintenance Council Local 1957 up to and including arbitration if the employee is a custodial or maintenance worker. Referral to the appropriate law enforcement agencies will be made in appropriate cases.
2. Any student of the College who is determined, after an investigation, to have engaged in sexual or other harassment in violation of this policy will be subject to disciplinary action, including, but not limited to, suspension and expulsion consistent with the College's Student Code of Conduct. Referral to the appropriate law enforcement agencies will be made in appropriate cases.
3. Any third person who is determined, after an investigation to have engaged in sexual or other harassment in violation of this policy may be subject to restriction from participation in activities on College property, at College-sponsored activities or at any College-related activity. Referral to the appropriate law enforcement agencies will be made in appropriate cases.

#### Knowingly Filing False or Malicious Complaints:

Any person who knowingly makes a false accusation regarding sexual or other harassment will likewise be subject to disciplinary action as outlined previously in this section of the policy.

Retaliation:

The College prohibits retaliation against a person because the person has opposed that which he or she believes to be sexual or other harassment or because he or she has made a charge, filed a complaint, testified, assisted or participated in an investigation, proceeding or hearing regarding sexual or other harassment. In addition, the College prohibits retaliation against the alleged offender by the accuser or other parties. Disciplinary action as outlined under the “Disciplinary Action” Section #1 of this policy will not be considered retaliation.

Retaliation is illegal under State and Federal Law and includes, but is not limited to, any form of intimidation, reprisal or harassment. A person engaging in retaliatory conduct shall be subject to disciplinary action as outlined under the “Disciplinary Action” Section of this policy with regard to employees and students, or possible restriction from participation in campus and/or College-related activities, with regard to third persons.

Resolution Outside the College:

It is hoped that sexual or other harassment complaints and incidents can be resolved within the College. However, employees, students, or third persons have legal recourse to the investigative and complaint process available through the Illinois Department of Human Rights and/or the Equal Employment Opportunity Commission. Complaints filed with these agencies must be filed within the agency’s deadline based on when the last harassing or discriminating action occurred. These deadlines are not based on the date the College determines the outcome of a claim filed with the College. The Illinois Department of Human Rights and the Equal Employment Opportunity Commission may be contacted as follows:

Illinois Department of Human Rights  
100 West Randolph Street, 10<sup>th</sup> Floor  
Intake Unit  
Chicago, IL 60601  
Telephone (312) 814-6200 or (866) 740-3953 (TTY)  
[www2.illinois.gov.dhr](http://www2.illinois.gov.dhr)

Equal Employment Opportunity Commission  
500 West Madison Street, Suite 2000  
Chicago, IL 60661  
Telephone (312) 353-2713; (800) 669-4000; or (312) 869-8001 (TTY)  
[www.eeoc.gov](http://www.eeoc.gov)

Policy Communication:

Information on this policy will be distributed in the College's Policy Manual, Faculty Handbook, College Catalog, the College website, and via posters and brochures placed around campus. Students registered in the First Year Experience classes will receive information related to this policy. New employees will be required to read the policy, sign an acknowledgement form that they have read the policy, and attend an informational session on harassment. Employees are encouraged to report any evidence of sexual or other harassment in the workplace whether they are victims or if they witness such harassment. Managers are required to report any known or reported harassment and will be trained to recognize and take action against harassment of any kind.