

Non-Harassment and Non-Discrimination Policy

Approved by the BOT, August 6, 2015



Introduction and Applicability of this Policy

Erskine College (“Erskine” or the “College”) is committed to ensuring that no individual is subjected to unlawful harassment or discrimination in connection with, or denied access to, the College’s programs or activities because of his or her race, color, religion, sex, pregnancy, national origin, disability, protected veteran status, age, or any other status protected by applicable federal, state, or local law.

The College also prohibits unlawful discrimination and harassment against employees and applicants for employment based on any status protected by applicable law; these prohibitions apply to all terms and conditions of employment including, but not limited to, recruitment, hiring, placement, promotion, training, discipline, termination, layoff, recall, transfer, leaves of absence, compensation, and benefits.

Examples of the types of conduct prohibited by this policy include, but are not limited to:

- Insults, epithets, jokes, slurs, or offensive comments that relate to race, color, religion, sex, pregnancy, national origin, age, protected veteran status, disability or any other status protected by applicable law.
- The placement, dissemination or circulation of any written, graphic, or electronic material that denigrates or shows hostility or aversion toward an individual or group because of race, color, religion, sex, pregnancy, national origin, age, protected veteran status, disability or any other status protected by applicable law.
- Any other conduct or behavior deemed by the College to be inappropriate or harassing based on race, color, religion, sex, pregnancy, national origin, age, protected veteran status, disability or any other status protected by applicable law.

The College has adopted this Non-Harassment and Non-Discrimination Policy (this “Policy”) to ensure the prompt and equitable resolution of allegations of harassment or discrimination on the basis of the protected classifications identified above.¹ The College has designated Mr. Buck Brown, Non-discrimination Coordinator, to coordinate its efforts to comply with the laws and regulations regarding non-discrimination and non-harassment. The following is Mr. Brown’s contact information:

¹ Please note that in the case of concerns regarding, allegations of, or grievances relating to Sexual Misconduct, the College’s Sexual Misconduct Policy applies in lieu of (and not in addition to) this Policy. The College’s Sexual Misconduct Policy provides procedures for reporting concerns, sets forth available resources, describes prohibited conduct, and establishes procedures for responding to allegations of and grievances relating to Sexual Misconduct. Sexual Misconduct, as that term is defined in the College’s Sexual Misconduct Policy, includes dating violence, domestic violence, sexual assault, sexual exploitation, sexual harassment, sexual intimidation, and stalking. Please see the College’s Sexual Misconduct Policy for additional information. The Sexual Misconduct Policy is available at www.erskine.edu and in the College’s Employee Resource Handbook.

Mr. Buck Brown, Non-discrimination Coordinator
Belk Hall 238
Two Washington Street
P.O. Box 338
Due West, South Carolina 29639
864-379-8805
brown@erskine.edu

This Policy, however, does not affect the College's right to exercise its theological, constitutional, or statutory rights to take religion into account to the extent consistent with applicable law.

Employee Reporting Obligation Even if No Grievance Is Filed

Any employee who believes that he or she has been subjected to discrimination or harassment based on a protected classification identified should promptly report the matter to the Non-discrimination Coordinator or use the alternative reporting options set forth below.

Any employee who believes that another employee is being subjected to discrimination or harassment in violation of this Policy should also promptly report such conduct to the Non-discrimination Coordinator or use the alternative reporting options set forth below. If the Non-discrimination Coordinator is the subject of the concern, the employee should contact the Senior Vice President for Finance and Operations (by phone at (864) 379-8812 or in person in Belk Hall).

Who May Grieve? / What May Be Grieved?

Any student currently enrolled at the College and any current employee of the College who believes that he or she has been discriminated against or harassed on the basis of a protected classification identified above may file a grievance under this Policy (the "Grievant"). Any applicant for employment or visitor to the College who believes that he or she has been discriminated against or harassed in violation of the principles in this policy is also encouraged to notify the Non-discrimination Coordinator, but such individuals are not generally afforded the procedures under this Policy.

Confidentiality

The College will treat all information submitted under this Policy or in connection with a grievance filed under this Policy as confidential to the extent required by applicable laws. Subject to the Family Educational Rights and Privacy Act and any other applicable privacy laws, however, the College official investigating the grievance will inform individuals with a legitimate need to know of the grievance and may provide them related information as necessary to allow the College official investigating the grievance to conduct a meaningful and thorough investigation. The College official investigating the grievance will inform all involved parties of the need to maintain the confidentiality of such information.

Prohibition Against Retaliation

The College prohibits retaliation (including but not limited to threats, intimidation, reprisals and adverse actions) being taken or threatened against a person because he or she has submitted information under this Policy or has filed a grievance or participated in a grievance investigation in good faith. The College official investigating a grievance will advise all involved parties of this strict prohibition against retaliation.

Informal Grievance Procedure

The Informal Grievance Procedure is designed to facilitate a satisfactory resolution of the grievance in an informal manner. The Grievant has the option to forego the Informal Grievance Procedure and move immediately to the Formal Grievance Procedure.

A Grievant initiates the Informal Grievance Procedure by contacting the Non-discrimination Coordinator by e-mail, phone, or in person within thirty (30) calendar days of the date on which the Grievant knew of or should have known of the adverse action, decision, or matter upon which the grievance is based. If the Non-discrimination Coordinator is the subject of the grievance, the Grievant initiates the Informal Grievance Procedure by contacting the Senior Vice President for Finance and Operations (by phone at (864) 379-8812 or in person in Belk Hall), who will assign an administrator in lieu of the Non-discrimination Coordinator. In such a case, references below to the Non-discrimination Coordinator will mean the administrator so assigned.

To initiate the Informal Grievance Procedure, a Grievant is not required to submit the grievance in writing, but the Non-discrimination Coordinator may ask the Grievant to do so or to submit other evidence, if necessary to facilitate a satisfactory resolution.

The Non-discrimination Coordinator will attempt to facilitate expeditiously a satisfactory resolution. The Non-discrimination Coordinator may meet in person with the Grievant, confer with the individual(s) against whom the grievance is filed, review relevant documents and information, attempt to arrange a meeting between the Grievant and the individual(s) against whom the grievance is filed, or take any other steps the Non-discrimination Coordinator believes will be useful in promoting resolution.

Within twenty one (21) calendar days after the Non-discrimination Coordinator receives the grievance, the Non-discrimination Coordinator will inform the Grievant and, as appropriate, the individual(s) against whom the grievance is filed in writing of the outcome of the Informal Grievance Procedure.

Formal Grievance Procedure

If the Grievant is not satisfied with the resolution reached using the Informal Grievance Procedure, or if the Grievant chooses not to use the Informal Grievance Procedure, the Grievant may initiate the Formal Grievance Procedure by submitting a written grievance to the Non-discrimination Coordinator. If the Non-discrimination Coordinator is the subject of the grievance, the Grievant initiates the Formal Grievance Procedure by contacting the Senior Vice

President for Finance and Operations (by phone at (864) 379-8812 or in person in Belk Hall), who will assign an administrator in lieu of the Non-discrimination Coordinator. In such a case, references below to the Non-discrimination Coordinator will mean the administrator so assigned.

A Grievant who chooses to initiate the Formal Grievance Procedure after participating in the Informal Grievance Procedure must do so within fifteen (15) calendar days of receipt of the Non-discrimination Coordinator's written notification of the outcome of the Informal Grievance Procedure. If the Grievant chooses not to use the Informal Grievance Procedure, he or she must initiate the Formal Grievance Procedure within thirty (30) calendar days of the date on which the Grievant knew of or should have known of the adverse action, decision, or matter upon which the grievance is based.

The written grievance must:

- be dated;
- state the problem or action alleged to be harassing or discriminatory and the date of the alleged action;
- state how the action is harassing or discriminatory or how the decision is unreasonable;
- include a summary of the steps, if any, that the Grievant has taken in an attempt to resolve the issue;
- include any supporting documentation;
- name the individual(s) against whom the grievance is filed;
- state the requested remedy and the Grievant's rationale for the requested remedy; and
- be signed by the Grievant and include his or her contact information.

If the Non-discrimination Coordinator has not already done so in connection with the Informal Grievance Procedure, he or she will review and/or investigate the grievance by taking steps such as the following: meeting in person with the Grievant, conferring with the individual(s) against whom the grievance is filed, reviewing relevant documents and information, attempting to arrange a meeting between the Grievant and the individual(s) against whom the grievance is filed, or taking any other steps the Non-discrimination Coordinator believes will be useful in promoting resolution. The Non-discrimination Coordinator will decide which steps are warranted by a particular grievance.

Within five (5) calendar days of receiving the written grievance, the Non-discrimination Coordinator will provide written notification of receipt of the grievance to the Grievant and to the individual(s) against whom the grievance is filed. The Non-discrimination Coordinator will forward the grievance to the College's Committee on Discipline and Appeals (the "CDA"), which will hold a hearing within thirty (30) business days of receipt of the grievance. Once the Non-discrimination Coordinator has completed his or her review or investigation of the grievance, he or she will share a report of such review or investigation with the CDA as well.

The hearing will afford all relevant persons an opportunity to present witnesses and submit evidence regarding the allegations and will follow the following procedures:

- All parties will have the opportunity for oral opening and closing arguments and for the presentation of relevant witnesses and pertinent documentary evidence.

- The CDA may question any witnesses, examine documentary evidence presented, and summon other witnesses as it deems necessary.
- The hearing shall be mechanically recorded. Either the Grievant or individual(s) against whom the grievance is filed may review the recording upon written notice the Non-Discrimination Coordinator. Recordings shall be maintained by the Non-Discrimination Coordinator for three (3) years from the hearing date.
- The Grievant and the individual(s) against whom the grievance is filed may seek the advice of counsel; however, neither party may proceed through counsel or have counsel present at the hearing.
- At the conclusion of the hearing, the CDA shall deliberate in closed session. Such deliberations shall not be recorded. The CDA will determine the outcome of the grievance by majority vote.

Within five (5) business days of the conclusion of the hearing, the Non-discrimination Coordinator will provide the Grievant and the individual(s) against whom the grievance is filed the CDA's written decision regarding the grievance, including any remedies or disciplinary action specified by the CDA (which may include but are in no way limited to expulsion or termination of employment). The decision will include findings of fact, a conclusion regarding violations of this Policy, and, if applicable, an explanation of remedies, which may include the imposition of disciplinary sanctions and/or referral to an individual's supervisor or another administrator for the determination and imposition of disciplinary sanctions.

Appeal

The Grievant and/or the individual(s) against whom the grievance is filed may appeal within fifteen (15) calendar days of receiving the CDA's written decision with the College's Presidential Appeals Committee (the "PAC") by submitting a written appeal to the Non-discrimination Coordinator.

The written appeal must clearly set forth the grounds for the appeal and must include all supporting evidence. If neither party files an appeal within fifteen (15) calendar days of receiving the CDA's decision, the decision of the CDA will be final and will not be subject to appeal.

Generally, the PAC will limit its review of the CDA's decision to determining whether the CDA considered the proper facts and whether there were any procedural irregularities; the PAC will not substitute its judgment for that of the CDA. The PAC will, by majority vote, reach a decision regarding the outcome of the appeal, including any remedies or disciplinary action (which may include but are in no way limited to expulsion or termination of employment).

Within thirty (30) calendar days of receipt of the appeal, the PAC will provide the Grievant and the individual(s) against whom the grievance is filed a written decision regarding the appeal. The decision of the PAC is final, and the College will disregard any subsequent appeals (in any form) to any College representative, including the College President.

Adjustment of Deadlines

The Non-discrimination Coordinator, the CDA or the PAC may change the above deadlines if they determine that additional time is warranted or for other good cause, such as semester or summer breaks, to provide additional time to consider the facts and evidence, delays in receiving information from witnesses, etc. Likewise, if the application of time deadlines creates a hardship due to the urgency of the matter, the Non-discrimination Coordinator, CDA or the PAC, at the request of the Grievant, will determine if an expedited procedure can be utilized. The Grievant and the individual against whom the grievance is filed will be notified if any deadlines are altered.

Interim Measures

If necessary while any grievance investigation is ongoing, the Non-discrimination Coordinator will impose interim measures to stop discrimination or harassment, prevent its recurrence, and correct any discriminatory effects on the Grievant and others, if appropriate. Such interim measures may include, but are not limited to, limiting interaction between the parties, or, if deemed warranted, placing the individual against whom the grievance is filed on paid leave.

Reconciliation

Nothing in this Policy is intended to prevent the Grievant and the individual against whom the grievance is filed from resolving the grievance at any point in the process by signing a written statement of agreement and submitting it for approval to the Non-discrimination Coordinator. If the Non-discrimination Coordinator approves the agreement, the grievance process will end immediately and the statement of agreement will be placed in the file maintained by the Non-discrimination Coordinator.

Preservation of Records

Once the Non-discrimination Coordinator, the CDA, or the PAC has made the final decision regarding the grievance, the records submitted to the Non-discrimination Coordinator, the CDA, and/or the PAC related to the grievance will be maintained in the office of the Non-discrimination Coordinator for three years.

Disability Accommodations

The College will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in the steps and procedures outlined in this Policy.

Students must make requests for accommodations to the Office of Student Services (located on the second floor of Watkins Student Center and available by phone at 864-379-8701). The Office of Student Services will review the supporting disability-related documentation, make a decision about the request, notify the individual about approved accommodations, and make arrangements for the accommodations.

In addition, the College is committed to providing reasonable accommodations to disabled applicants for employment and to disabled employees to the extent required by applicable laws, including the Americans with Disabilities Act. If a disabled applicant is in need of a reasonable accommodation to apply for a job, if a disabled employee is in need of a reasonable accommodation to perform the essential functions of his or her job, or if a disabled Grievant is in need of a reasonable accommodation to participate in the processes under this Policy, the individual must contact the Non-discrimination Coordinator to request the accommodation.

External Complaints

The availability and use of this Policy does not prevent a student from filing a complaint of discrimination with external agencies such as the U.S. Department of Education, Office for Civil Rights.

Similarly, nothing in this Policy prevents applicants or employees from filing a complaint or cooperating with external agencies such as the Equal Employment Opportunity Commission.