

## 2017-18 Kenyon College Discrimination Policies

*This is an archived version of the 2017-18 discrimination policies, which were specific to [students](#), [faculty members](#) and [staff](#). As of 2018-19, the College has a single policy for all groups, which can be viewed at [kenyon.edu/discrimination-policy](http://kenyon.edu/discrimination-policy).*

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### Discrimination Policy for Students

#### J. Discriminatory Harassment (from the Student Handbook)

Kenyon aspires to create an environment where the worth and dignity of every individual is recognized and where individuals' unique experiences and backgrounds are respected. Respect for difference and equality of opportunity are values to which the College strongly adheres.

In today's environment, Kenyon faces the need to make absolutely clear its commitment to a community of mutual respect for difference, of understanding and tolerance and, concomitantly, its absolute rejection of bigotry and persecution. The following statement is universal; it covers a wide array of forms of discriminatory harassment. Note however that discrimination and/or harassment on the basis of sex, sexual orientation, gender, gender identity or gender expression that is prohibited under the College's [Title IX and Intimate Partner Violence Policy](#) will be handled pursuant to that policy.

#### STATEMENT OF PRINCIPLE

The objectives of the College include the discovery of new knowledge, communication of knowledge through education, and the creation and sustenance of a community of scholars. All members of the Kenyon community, whether students or employees, incur additional civic responsibilities by choosing to belong to this community. By accepting membership in this community, students and employees not only retain a right to free expression and free inquiry, but also accept a responsibility for honesty, tolerance and respect for the rights and dignity of others.

Students, in particular, come to Kenyon to study the liberal arts. These address, in various ways, what it is to be human. As a consequence, Kenyon students live under an expectation to seek out and recognize the common humanity of those they meet and with whom they deal. This entails several responsibilities. First among these is the responsibility of engaging in mutual and respectful discussion and education. It also includes the responsibility of becoming aware of offensive language and ceasing to use it. It entails as well the responsibility of educating others in a courteous spirit about what is offensive so that fellow students do not offend in ignorance.

In the context of this expectation for behavior, harassment and discrimination will not be tolerated. Harassment is a very serious offense and can result in the imposition of severe disciplinary measures. Harassment, as defined below, is offensive to the principles of appropriate discourse and civil conduct. Indeed, it is a form of persecution which can cause extreme anguish and humiliation. An individual,

whether student or employee, who engages in harassment may be made subject to the applicable student or employee grievance and disciplinary procedures. Students or employees who experience harassment, as defined below, should report this experience to a diversity advisor and discuss with this person strategies for responding. No member of this community should tolerate harassment.

### DEFINITION OF DISCRIMINATORY HARASSMENT

Speech or other expression constitutes harassment if it:

- is intended to insult or stigmatize an individual or an identifiable group of College-related individuals on the basis of their race, color, sex, age, disability, religion, sexual orientation, gender identity, national/ethnic origin or other characteristic that is intrinsic to a person's identity, and
- is addressed directly to or at (though not necessarily in the presence of) the individual or individuals whom it insults or stigmatizes, and
- makes use of words or nonverbal symbols that convey hatred or contempt for human beings on the basis of their race, color, sex, age, disability, religion, sexual orientation, gender identity, national/ethnic origin or other characteristic that is intrinsic to a person's identity. Harassment may also be constituted by nonverbal acts, which would also be punishable as, for example, vandalism, physical assault or destruction of property.

Other examples of harassment include:

- epithets or "jokes" referring to an individual's group-based attributes;
- placement of offensive written or visual material in or on another's living quarters or work area;
- offensive messages sent through email;
- undesired physical contact; and
- physical violence or threat of the same.

### EXPLANATORY NOTES

For verbal utterances to be punishable as harassment they must fall under the precise definition stated above. They must be directed at an individual or an identifiable group of College-related individuals (for example, the Black Student Union), must be uttered with an intent to insult or stigmatize, and must not be protected under any of the exempt categories, which are listed and described below. For example, however lamentable, the telling of racist jokes is not harassment unless directed at a member of the scorned group for the purpose of insulting or stigmatizing that person by his or her group membership. Similarly, group libel (e.g., "all Jews ..."), however revolting, is not harassment by this definition if it is not directed at particular individuals or an identifiable group of College-related individuals.

The intention, design or reason of the person charged with violating this policy may be inferred from that person's contemporaneous conduct or statements, before, during and after the conduct or expression which is the subject of a complaint or grievance, including any racial, sexist or similarly offensive slurs or epithets, and by the totality of the facts, circumstances and conduct surrounding the subject conduct or expression. While the mere fact that some particular thing was uttered does not determine intention, prior knowledge that an expression or action is offensive is an indication of intent.

Exempt categories: Because harassment can take the form of speech, it is necessary to clearly distinguish harassing speech from the protected speech which is vital to the intellectual enterprise of the College.

Thus:

- a. Speech that conveys reasoned opinion, principled conviction or speculation is not harassment. For example, the assertions that “all whites are racist” or “affirmative action is wrong” or “Christians are foolish to believe ...” are not harassment. Of course, the mere claim of engagement in reasoned opinion is not sufficient to lift the charge of harassment. For example, shouting racist insults under a residence-hall window at night cannot disguise itself as “reasoned opinion.” However, debates, discussions and/or arguments, however lively, do not give grounds for harassment charges.
- b. Political commentary and satire are not harassment. For example, satirical comments about the Laramie Project are not harassment. Putting a Confederate flag on one’s own door would also not be harassment, however offensive it might be deemed by many. Again, the mere claim of political commentary or satire cannot excuse what is really harassment.
- c. Speech that occurs in the ordinary course of classroom discussion and teaching is especially sacrosanct. That is, any opinion, including that of Hitler, for example, has to be allowed for discussion and even advocacy in the classroom. A racially-tinged tirade directed against a particular student or students, and unrelated to the academic content of the class, however, might be deemed harassment.

*Approved by Campus Senate May 1990; last revised January 2011.*

### INFORMAL PROCEDURES FOR COMPLAINTS

The College has two groups of advisors on campus who assist students and others with issues of discrimination. They are the diversity advisors and the sexual misconduct advisors. The sexual misconduct advisors assist with cases of sexual harassment and they are specifically trained to do so; the diversity advisors assist with cases of group-based discriminatory harassment. The Office of Diversity Equity and Inclusion recruits and directs the training of the diversity advisors, and the College Counseling Center recruits and directs the training of the sexual misconduct advisors. Any person who believes he or she is a victim of discriminatory harassment should consider bringing the situation to the attention of one of the advisors or to the civil rights/Title IX coordinator to explore options.

The responsibilities of the diversity advisors include:

- Listening to complaints,
- Discussing allegations,
- Suggesting ways to address the harassment,
- Facilitating conversations with the parties involved if/when appropriate, and
- Acquainting others with College policies and procedures pertaining to discrimination.

## FORMAL PROCEDURES FOR COMPLAINTS

A student who wishes to file a formal complaint needs to submit a written and signed complaint to the civil rights/Title IX coordinator. The civil rights/Title IX coordinator will refer the written and signed complaint to:

1. Student Affairs, if the complaint is against another student(s). The case will be assigned to a Student Affairs staff member who will determine its appropriateness for a Student Conduct Review Board hearing.
2. The provost, if the complaint is against a faculty member. The provost determines whether the case should be referred to the appropriate faculty grievance committee for adjudication (see Faculty Handbook, "Grievance Procedures").
3. The director of human resources, if the complaint is against an administrator or staff member. The director determines whether the case should be referred to the Staff and Administrative Hearing Board for adjudication (see the Administration and Staff Handbook, "Discrimination and Discriminatory Harassment").

Ordinarily, no action or investigation can be undertaken unless the individual chooses to file a formal, written complaint. However, in serious cases such as those that appear to be criminal in nature, or that pose a serious physical or emotional threat to students or members of the administration, faculty or staff, or in cases of repeated allegations by the same individual, an advisor may request that an investigation be undertaken. The request will be submitted to the civil rights/Title IX coordinator, who in consultation with the president will refer it to the appropriate grievance committee or senior staff officer.

At the end of each academic year, the sexual misconduct and diversity advisors will provide the president with a written report of the number and nature of complaints of harassment that were made during the year. To ensure confidentiality, this report will not contain names of individuals involved or details that would enable identification of individuals.

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## Discrimination Policy for Faculty

### 1.6.1 Statement on Harassment (from the Faculty Handbook)

(Based on Race, Sex, Sexual Orientation, Age, Handicap, Religion, National Origin) (See sections 1.6.3 ) (approved December 1990) (edit Oct 2014, July 2015)

(Sexual Harassment is covered in Kenyon's Sexual Misconduct and Harassment Policy: Title IX, VAWA, Title VII, which was approved in 2015. See 1.6.3)

#### A. INTRODUCTION

The College seeks to protect and preserve the dignity and integrity of all its members. In seeking to make real the promise of equal opportunity and racial diversity, Kenyon faces the need to make absolutely clear its commitment to a community of mutual respect for difference, of racial understanding and tolerance

and, concomitantly, its absolute rejection of racial bigotry and persecution. The following statement is universal; it covers a wide array of forms of group-based discriminatory harassment, because that which makes racial harassment wrong makes all such harassment wrong. The particular concern which has brought forth this statement is racial harassment.

## B. STATEMENT OF PRINCIPLE

All members of the Kenyon College community, whether students or employees, incur special responsibilities. The objectives of the College include the discovery of new knowledge, the communication of knowledge through education, and the creation and sustenance of a community of scholars and students. By accepting membership in this community, students and employees assume a responsibility for and a commitment to free expression, free inquiry, honesty, tolerance, and respect for the rights and dignity of others.

Students, in particular, come to Kenyon to study the liberal arts. These treat in various ways what it is to be human as such. As a consequence, Kenyon students live under an expectation which goes beyond even the ordinary expectations of civil life to seek out and recognize the common humanity of those they meet and deal with. This entails the responsibility of learning what others understand to be slurs against groups which implicitly deny their members the status of common humanity, so that they do not offend in ignorance. It entails as well the responsibility of educating others in a courteous spirit about what is offensive so that they do not offend in ignorance. It entails furthermore the responsibility of engaging in mutual and respectful discussion and education. These expectations of sensitivity are enforced in general by praise and blame.

Harassment, however, as properly defined below, is a very serious offense which can result in the imposition of severe disciplinary measures. Harassment, as defined below, is offensive to the principles of appropriate discourse and civil conduct. Indeed, it is a form of persecution which can cause extreme anguish and humiliation. It is unacceptable under any circumstances and will not be tolerated. An individual, whether student or employee, who engages in harassment may be made subject to the applicable student or employee grievance and disciplinary procedures. Students or employees who experience harassment, as defined below, should report this experience to the Student Affairs Center, to their immediate supervisor, or to the Title IX and Section 504 Coordinator. A fair hearing will be held, as on other charges of social infractions. No member of this community should tolerate harassment.

## C. DEFINITION OF HARASSMENT

Speech or other expression constitutes harassment by personal vilification if it:

1. is intended to insult or stigmatize an individual or an identifiable group of college-related individuals on the basis of their race, sex, age, handicap, religion, sexual orientation, or national and ethnic origin, and
2. is addressed directly to (though not necessarily in the presence of) the individuals whom it insults or stigmatizes, and

3. makes use of words or non-verbal symbols that convey hatred or contempt for human beings on the basis of their race, sex, age, handicap, religion, sexual orientation, or national and ethnic origin.

Harassment may also be constituted by non-verbal acts which would also be punishable as, for example, vandalism, physical assault, or destruction of property. Other examples of harassment include epithets or "jokes" referring to an individual's group-based attributes; placement of offensive written or visual material on another's living quarters or work area; offensive messages sent through electronic mail; undesired physical contact, physical violence or threat of same.

#### D. EXPLANATORY NOTES

1. For verbal utterances to be punishable as harassment they must fall under the precise definition stated above. They must be directed at an individual or an identifiable group of college-related individuals, (for example, the Black Student Union), must be uttered with an intent to insult or stigmatize, and must not be protected under any of the exempt categories which are listed and described below. For example, however lamentable, the telling of racist jokes is not harassment unless directed at a member of the scorned group for the purpose of insulting or stigmatizing that person by his or her group membership. Similarly, group libel (e.g., "all Jews are thieves"), however revolting, is not harassment by this definition if it is not directed at particular individuals or an identifiable group of college-related individuals.
2. The intention, design, or reason of the person charged with violating this policy may be inferred from that person's contemporaneous conduct or statements, before, during, and after the conduct or expression which is the subject of a complaint or grievance, including any racial, sexist, or similarly offensive slurs or epithets, and by the totality of the facts, circumstances, and conduct surrounding the subject conduct or expression. While the mere fact that some particular thing was uttered does not determine intention, prior knowledge that an expression or action is offensive is an indication of intent.
3. Because harassment can take the form of speech, it is therefore necessary to distinguish such forms clearly from the protected speech which is vital to the intellectual enterprise of the College. Thus:
  - a. Speech which conveys reasoned opinion, principled conviction, or speculation is not harassment. For example, the assertions that "all whites are racist" or "affirmative action is wrong," or "Christians are fools to believe in a nonexistent God, " are not harassment. Of course, the mere claim of engagement in reasoned opinion is not sufficient to lift the charge of harassment. For example, shouting racist insults under a dormitory window at night cannot disguise itself as "reasoned opinion." However, debates, discussions, arguments, however lively, do not give grounds for harassment charges.
  - b. Political commentary and satire are not harassment. For example, satirical comments about "denim day" are not harassment. Putting a Confederate flag on one's own door would also not be harassment, however insensitive it might be deemed by many. Again, the mere claim of political commentary or satire cannot excuse what is really harassment.

- c. Speech which occurs in the ordinary course of classroom discussion and teaching is especially sacrosanct. That is, any opinion, including that of Hitler, for example, has to be allowed for discussion and even advocacy in the classroom. An outburst of racial invective directed against a particular student or students, and unrelated to the academic content of the class, might however be deemed harassment.
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## Discrimination Policy for Staff

### Employment Policies > Discrimination and Discriminatory Harassment Policy (from the Staff Handbook)

Kenyon College aspires to create an environment where the worth and dignity of every individual is recognized, and where individuals' unique experiences and backgrounds are respected. Respect for difference and equality of opportunity are values to which the College strongly adheres. In today's environment, Kenyon faces the need to make absolutely clear its commitment to a community of mutual respect for difference, of understanding and tolerance and, concomitantly, its absolute rejection of bigotry and persecution. The following statement is universal; it covers a wide array of forms of discriminatory harassment.

The objectives of the College include the discovery of new knowledge, communication of knowledge through education, and the creation and sustenance of a community of scholars. All members of the Kenyon College community, whether students or employees, incur additional civic responsibilities by choosing to belong to this community. By accepting membership in this community, students and employees not only retain a right to free expression and free inquiry, but also accept a responsibility for honesty, tolerance, and respect for the rights and dignity of others.

In the context of this expectation for behavior, harassment and discrimination will not be tolerated. Harassment is a very serious offense, and can result in the imposition of severe disciplinary measures. Harassment, as defined, is offensive to the principles of appropriate discourse and civil conduct. Indeed, it is a form of persecution which can cause extreme anguish and humiliation. An individual, whether student or employee, who engages in harassment may be made subject to the applicable student or employee grievance and disciplinary procedures. Students or employees who experience harassment, as defined below, should report this experience to a diversity advisor and discuss with this person strategies for responding. No member of this community should tolerate harassment.

#### DEFINITION OF DISCRIMINATORY HARASSMENT

Speech or other expression constitutes harassment if it:

- is intended to insult or stigmatize an individual or an identifiable group of College-related individuals on the basis of their race, color, national origin, ancestry, sex, gender, gender identity, gender expression, sexual orientation, physical and/or mental disability, age, religion, medical

condition, veteran status, marital status or any other characteristic protected by institutional policy or state, local, or federal law and

- is addressed directly to or at (though not necessarily in the presence of) the individual or individuals whom it insults or stigmatizes, and
- makes use of words or nonverbal symbols that convey hatred or contempt for human beings on the basis of their race, color, national origin, ancestry, sex, gender, gender identity, gender expression, sexual orientation, physical and/or mental disability, age, religion, medical condition, veteran status, marital status or any other characteristic protected by institutional policy or state, local, or federal law. Harassment may also be constituted by nonverbal acts, which would also be punishable as, for example, vandalism, physical assault, or destruction of property. Other examples of harassment include:
  - epithets or "jokes" referring to an individual's group-based attributes;
  - placement of offensive written or visual material in or on another's living quarters or work area;
  - offensive messages sent through email;
  - undesired physical contact; and
  - physical violence or threat of the same.

## EXPLANATORY NOTES

1. For verbal utterances to be punishable as harassment they must fall under the precise definition stated above. They must be directed at an individual or an identifiable group of College-related individuals (for example, the Black Student Union), must be uttered with an intent to insult or stigmatize, and must not be protected under any of the exempt categories, which are listed and described below. For example, however lamentable, the telling of racist jokes is not harassment unless directed at a member of the scorned group for the purpose of insulting or stigmatizing that person by membership in the group. Similarly, group libel (e.g., "all Jews . . ."), however revolting, is not harassment by this definition if it is not directed at particular individuals or an identifiable group of College-related individuals.
2. The intention, design, or reason of the person charged with violating this policy may be inferred from that person's contemporaneous conduct or statements, before, during, and after the conduct or expression which is the subject of a complaint or grievance, including any racial, sexist, or similarly offensive slurs or epithets, and by the totality of the facts, circumstances, and conduct surrounding the subject conduct or expression. While the mere fact that some particular thing was uttered does not determine intention, prior knowledge that an expression or action is offensive is an indication of intent.
3. Exempt Categories: Because harassment can take the form of speech, it is necessary to clearly distinguish harassing speech from the protected speech which is vital to the intellectual enterprise of the College. Thus:
  - a. Speech that conveys reasoned opinion, principled conviction, or speculation is not harassment. For example, the assertions that "all whites are racist" or "affirmative action is

wrong" or "Christians are foolish to believe . . ." are not harassment. Of course, the mere claim of engagement in reasoned opinion is not sufficient to lift the charge of harassment. For example, shouting racist insults under a residence-hall window at night cannot disguise itself as "reasoned opinion." However, debates, discussions, arguments, however lively, do not give grounds for harassment charges.

- b. Political commentary and satire are not harassment. For example, satirical comments about the Laramie Project are not harassment. Putting a Confederate flag on one's own door would also not be harassment, however offensive it might be deemed by many. Again, the mere claim of political commentary or satire cannot excuse what is really harassment.
- c. Speech that occurs in the ordinary course of classroom discussion and teaching is especially sacrosanct. That is, any opinion, including that of Hitler, for example, has to be allowed for discussion and even advocacy in the classroom. A racially-tinged tirade directed against a particular student or students, and unrelated to the academic content of the class, however, might be deemed harassment.

**Initiating a discrimination or discriminatory harassment complaint against a staff member or administrator of the College:**

A discrimination or discriminatory harassment complaint against an employee of the College (staff member or administrative member) may be submitted orally or in writing to any of the following individuals: the employee's supervisor, the division head, the Director of Human Resources, or the Civil Rights/Title IX Coordinator.

1. Accusations of discrimination and or discriminatory harassment (on the basis of race, color, national origin, ancestry, sex, gender, gender identity, gender expression, sexual orientation, physical and/or mental disability, age, religion, medical condition, veteran status, marital status or any other characteristic protected by institutional policy or state, local, or federal law) that are received by an employee's supervisor, division head, or the Director of Human Resources will be forwarded to the Civil Rights/Title IX Coordinator (since it is the responsibility of the Civil Rights/Title IX Coordinator to process complaints of discrimination at the College). NOTE: For complaints based on disability see Employee and Visitor Grievance Procedure/Resolving Complaints ADA/Section 504. For complaints based on sexual and/or gender based discrimination, harassment, or violence, intimate partner violence or stalking see Title IX Policy.
2. In cases of alleged discrimination or discriminatory harassment, the Civil Rights/Title IX Coordinator (or their designee) will conduct an investigation to determine the facts of the case. The College is required by College policy and civil rights legislation to conduct a prompt and impartial investigation of discrimination complaints. Information regarding a complaint will be disclosed, however, only to the extent necessary to conduct an appropriate investigation, and otherwise will be kept confidential insofar as legally permitted. To ensure that a complainant's

case is represented wholly and accurately, a written and signed statement from the complainant detailing the incident is strongly encouraged.

3. The Civil Rights/Title IX Coordinator (or their designee) will inform the Director of Human Resources of the results of the investigation. The Director of Human Resources will ensure that appropriate action is taken, if warranted, and will notify both the complainant and the accused in writing of the results of the investigation, normally within ten days from receipt of the investigative report.
4. The person against whom the complaint was made (the accused) may appeal any action taken against him or her as a result of the investigation by following step 3 of the Complaint resolution Procedures described in this Handbook.
5. The range of sanctions for offenses of discrimination or discriminatory harassment may vary depending on the context of the offense, but will range normally from a Warning; to Mandatory Educational Training; to Disciplinary Probation; to Dismissal.

**Initiating a discrimination or discriminatory harassment complaint against someone who does business with the College:**

A discrimination or discriminatory harassment complaint against someone who does business with the College may be made orally or in writing to the Vice President for Finance and/or the Civil Rights/Title IX Coordinator. If the case is referred initially to the Civil Rights/Title IX Coordinator, the Civil Rights/Title IX Coordinator will notify the Vice President for Finance of the charges. The Vice President for Finance in consultation with the Civil Rights/Title IX Coordinator will be responsible for ensuring that a complete and thorough investigation is conducted and will take appropriate corrective action if warranted.

**Initiating a discrimination or discriminatory harassment complaint against a faculty member by a staff member or administrator of the College:**

Complaints alleging discrimination or discriminatory harassment of a staff member or administrator by a faculty member may be made orally or in writing to the Provost and/or to the Civil Rights/Title IX Coordinator. If the case is referred initially to the Civil Rights/Title IX Coordinator, the Civil Rights/Title IX Coordinator will notify the Provost of the charges. The Provost will be responsible for ensuring that a complete and thorough investigation is conducted and will consult with the Civil Rights/Title IX Coordinator during the process. In such cases, the policies and procedures as described in The Faculty Handbook will apply.

**Initiating a discrimination or discriminatory harassment complaint against a student by a staff member or administrator of the College:**

Complaints alleging discrimination or discriminatory harassment of a staff member or administrator by a student may be made orally or in writing to the Dean of Students and/or the Civil Rights/Title IX Coordinator. If the case is referred initially to the Civil Rights/Title IX Coordinator, the Civil Rights/Title IX Coordinator will notify the Dean of Students of the charges. The Dean of Students will be responsible

for ensuring that a complete and thorough investigation is conducted and will consult with the Civil Rights/Title IX Coordinator during the process. In such cases, the policies and procedures as described in The Student Handbook will apply.

**External Complaints:**

To the extent permitted by law, the College reserves the right to terminate its processing of a formal discrimination or discriminatory harassment complaint if the complainant submits the complaint to an external agency.

*Approved May 1990; revised October 2014; revised July 2015.*