



# Nichols College Policy Against Discrimination, Harassment, and Retaliation

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# **NICHOLS COLLEGE POLICY AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION**

## **I. Nichols' Commitment to Non-Discrimination**

Nichols ("Nichols" or "the College") is committed to fostering an environment of mutual respect among its students, staff and faculty, as well as others who participate in the College's programs and activities. As part of this commitment, Nichols seeks to protect the rights of all members of the College community and any other persons having dealings with the College, and prohibits discrimination and harassment on the basis of gender/sex (including pregnancy), gender identity/expression, race, color, religion or religious creed, sexual orientation, national origin, ancestry, disability or handicap, age, genetics, marital status, veteran status and any other category protected by law ("protected class status"). Nichols also prohibits discrimination and harassment based on an individual's participation in a protected activity (such as reporting alleged discrimination or harassment). Retaliation against any individual who raises a good faith report under this policy is strictly prohibited.

Nichols expects that its students, faculty, staff, vendors, contractors, alumni and guests will conduct themselves appropriately and refrain from behavior that violates this and other College policies. Accordingly, individuals who discriminate against or harass others in violation of this policy, regardless of whether such conduct rises to the level of unlawful discrimination or harassment, may be subject to disciplinary action, up to and including immediate termination of employment, association with Nichols, or dismissal from Nichols.

## **II. Individuals Covered Under this Policy**

This policy applies to all members of the Nichols College community including students, employees (including all part-time and full-time professors, assistant professors, associate professors, visiting professors, lecturers, instructors, administrators, and staff) as well as independent contractors, volunteers who perform work for the College and vendors, alumni, and guests or visitors of the College.

## **III. Coordination of Policy Against Discrimination, Harassment, and Retaliation and Sexual Misconduct Policy**

There will be instances where conduct in violation of this Discrimination, Harassment, and Retaliation Policy also constitutes a reported violation of Nichols College's Sexual Misconduct Policy. In all instances in which the reported conduct may constitute a violation of both the Policy Against Discrimination, Harassment, and Retaliation and the Sexual Misconduct Policy, the Sexual Misconduct Policy is the College policy that will be used by the College to resolve the report. Whenever there is a conflict between this Discrimination, Harassment, and Retaliation Policy and the Sexual Misconduct Policy, the Sexual Misconduct Policy will govern the reporting, investigation, resolution, and any other component of the College's review of the matter.

#### **IV. Definitions**

Unlawful discrimination is unfavorable, unfair or inequitable treatment of a person or a “class” of people based on protected characteristic(s) such as gender/sex (including pregnancy), gender identity/expression, race, color, religion or religious creed, sexual orientation, national origin, ancestry, disability or handicap, age, genetics, marital status, veteran status or any other category protected by law. Examples of unlawful discrimination include denying an individual a job or a promotion, or denying a student the opportunity to participate in an educational activity because of his or her protected characteristic(s).

Discriminatory harassment is harassment based on an individual’s protected characteristic(s). Discriminatory harassment is defined, for purposes of this policy, as conduct that degrades or shows hostility towards an individual because of his or her protected characteristic(s) and which: (1) has the intent or effect of unreasonably interfering with the individual’s employment or enrollment, or (2) has the purpose or effect of creating a hostile, intimidating or offensive working, living or learning environment (“hostile environment”).

Sexual harassment is a form of unlawful sex discrimination. Both the federal courts and the Equal Employment Opportunity Commission have ruled that sexual harassment constitutes sex discrimination as defined by Title VII of the Civil Rights Act of 1964. Sexual Harassment, including any form of sexual violence, has also been judged to be prohibited sex discrimination under Title IX of the Higher Education Amendments of 1972 as amended. Harassing or otherwise abusing in any fashion any individual based on her/his/their sex, gender or gender identity/expression violates both this Policy Against Discrimination, Harassment, and Retaliation, as well as Nichols’ separate Sexual Misconduct Policy.

A person may be found to have engaged in unlawful sexual harassment if the person makes unwelcome sexual advances or requests for sexual favors, or engages in other verbal or physical conduct of a sexual nature where: (1) submission to such advances, requests or conduct by an employee or student is made either explicitly or implicitly a term or condition of his or her employment or educational experience (“quid pro quo” harassment); or (2) such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an employee or student’s professional or educational performance by creating an intimidating, hostile, humiliating or sexually offensive work or educational environment (“hostile environment” harassment) or impacts participation in College related programs or activities.

All persons, regardless of gender can be perpetrators and victims of sexual harassment. Sexual harassment can also involve conduct towards members of the same or opposite sex as the harasser. Whether unwelcome sexual conduct rises to the level of unlawful sexual harassment depends on the severity or pervasiveness of the conduct. Sexual harassment may include the following: (1) unwelcome physical touching of a sexual nature; (2) unwelcome verbal comments of a sexual nature (lewd jokes, sexual inquiries or comments about individuals’ bodies, repeated requests for dates, or comments about one’s sexual activity, deficiencies, or prowess); (3) displaying or distributing sexually suggestive objects, pictures, cartoons, graffiti, drawings, media or written materials; and/or (4) acts of sexual violence including rape, sexual assault, battery and coercion.

Sexual Misconduct in any form is a violation of the rights and dignity of those subjected to the misconduct. Acts of sexual misconduct, are defined in Section IV of Nichols' Sexual Misconduct Policy and are contrary to the College's educational mission and values, harmful to others, and will not be tolerated at Nichols. All members of the Nichols community are expected to carefully review the Sexual Misconduct Policy and are responsible for complying with its terms. When any member of our community engages in an act of sexual misconduct, that person exhibits a fundamental failure to act with integrity and to recognize and respect the intrinsic worth of another.

All members of the Nichols community should be free from sexual misconduct in the classroom; the social, recreational and residential environment; and the workplace. The College seeks to foster a climate free from sexual misconduct through a coordinated education and prevention program, the promulgation of clear and effective policies, as well as investigative and grievance procedures that are prompt, equitable, and accessible to all. In response to any reported sexual misconduct, Nichols will take all appropriate steps to eliminate the misconduct, prevent its recurrence and address its effects. In order to promote a culture where members of the College community respect themselves and one another, and to provide for the safety and security of our community, the College expects all community members to take action to prevent acts of sexual misconduct. Creating a safe campus environment is the responsibility of all members of the College community, both individually and collectively.

The Sexual Misconduct Policy identifies resources and support for all College community members impacted by sexual misconduct, provides information about where a College community member impacted by sexual misconduct can obtain support or access resources in a confidential manner; provides information about how a College community member can make a report or complaint concerning sexual misconduct on-campus or off-campus; and provides information about how a report or complaint against a College community member will be investigated, evaluated and resolved. See Appendix A to Sexual Misconduct Policy: Process for Resolving Complaints of Sexual Misconduct Against Nichols Students and Appendix B to Sexual Misconduct Policy: Process for Resolving Complaints of Sexual Misconduct Against Nichols Faculty, Staff, and Nichols-Affiliated Third Parties.

Retaliation is taking materially adverse actions against someone because the individual has engaged in legally protected activities. For instance, terminating or expelling an individual because the individual has in good faith complained of conduct raised under this policy could be an example of retaliation. The College will not tolerate members of its community taking adverse actions towards anyone who, in good faith, alleges discrimination or harassment. Nor will the College tolerate retaliation against individuals for cooperating with an investigation related to the individual's complaint or another individual's discrimination complaint. Just as if an individual is determined to have violated this policy by engaging in discrimination or harassment, if the College determines that any individual has engaged in retaliation in violation of this policy, that individual may be subject to disciplinary action up to and including immediate termination of employment or association with Nichols.

## **V. Examples of Conduct that May Constitute Unlawful Discrimination or Harassment**

Depending upon the circumstances and how they impact the workplace, educational programs, activities or the academic environment, examples of unlawful discrimination could include the following types of conduct:

- Making decisions about a person's employment, compensation or education based upon or motivated by the person's protected class status;
- Verbal or physical abuse, offensive innuendo or derogatory words, epithets or comments concerning or based on or motivated by a person's protected class status;
- A display of objects, pictures, or other media which create a hostile working/learning environment based on or motivated by a person's protected class status; and
- Failure to provide religious or disability related accommodations as may be required under applicable law.

In addition, sexual harassment can take its own unique form. Sexual harassment does not refer to words or actions that are welcome. It refers to behavior that is not welcome and can occur in a variety of situations, which share a common element: the inappropriate introduction of sexual activities or comments into the work or academic environment on the basis of sex. Harassing conduct need not be motivated by sexual desire in order to constitute unlawful sexual harassment.

Sexual harassment often involves relationships of unequal power. Such situations may contain elements of coercion, such as when compliance with requests for sexual favors becomes a condition for granting privileges or favorable treatment on the job or in the classroom. However, sexual harassment may also involve relationships among persons of equal authority or power, such as when repeated unwelcome advances or demeaning verbal comments by staff, faculty, student, or affiliate towards another staff, faculty, student, or affiliate unreasonably interferes with a person's ability to perform his or her work or enjoy an academic environment free of harassment. Sexual harassment can also involve behavior directed to and/or by students of the College, as well as staff, faculty and non-employees of the College.

Depending upon the circumstances and how they impact the workplace or academic environment, examples of sexual harassment include but are not limited to conduct such as the following:

- Verbal abuse, insults, jokes, comments or innuendo of a sexual nature that include lewd, obscene or sexually suggestive displays or sex-based or gender-based remarks;
- Physical contact, such as touching, hugging, kissing, patting, or pinching, that is uninvited and unwanted or unwelcome by the other person;

- The requests or demands for sexual favors accompanied by implicit or explicit promised rewards or threats concerning an individual's employment status or educational status; and
- Repeated unwelcome social invitations, sexual flirtations, advances, propositions or unwanted requests for sexual favors.

## **VI. Consensual Relationships**

Under this Policy, consenting romantic and sexual relationships where a power differential exists, must realize that, if a charge of sexual harassment (including one alleging a hostile work or academic environment) is subsequently lodged, it will be exceedingly difficult to disprove the claim on the grounds of mutual consent. Because this is so, it should be understood that relationships of this kind pose serious professional risks to any who enter into them and include:

- Romantic involvement (even if consensual) between supervisors and subordinates that impacts the workplace and/or other individuals in areas such as assignments, advancements and benefits.
- Romantic involvement (even if consensual) between supervisors, staff, faculty and students they supervise or teach that impacts the academic environment, and/or other students in areas such as assignments, grades and academic benefits;

These relationships, and the dissolution of such relationships, can create discord and significantly impair the normal operations of the College. Such relationships can also, at a minimum, create an appearance of impropriety and favoritism. For these reasons, among others, dating, romantic, or sexual relationships between students and College employees during the period of a teacher/student relationship or of any professional responsibility (even when college is not in session or the student is on leave) are prohibited. For purposes of this section, professional responsibility for a student means responsibility over academic matters, including teaching, counseling, grading, advising for a formal project such as a thesis or research, evaluating, hiring, supervising, coaching, making decisions or recommendations that confer benefits such as admissions, registration, financial aid, other awards, remuneration, or fellowships, or performing any other function that might affect teaching, research, or other academic programs, activities, or opportunities. College policy also strongly discourages any sexual relations between faculty or staff and students. The deans, department Chairs, and other administrators should respond to reports of prohibited sexual relationships by inquiring further and, if such reports appear to be accurate, initiating appropriate disciplinary action or remedial measures against the faculty and/or staff member involved.

## **VII. Responsibilities of College Community Members**

Each member of the College community covered by this policy is expected to be personally responsible for their own conduct and for taking steps to adhere to this policy such that each individual does not discriminate against or harass anyone in the campus community. All College community members are also responsible for cooperating in any investigation of

alleged harassment or discrimination if requested to do so by the person conducting the investigation.

Any person who observes an incident that may constitute a violation of this policy or who otherwise becomes aware of such an incident must immediately notify one of the College personnel listed in the Complaint Procedure below.

In the educational setting within the College, there exists latitude for a faculty member's professional judgment in determining the appropriate content and presentation of academic material. Academic curriculum and pedagogical goals that serve legitimate and reasonable educational purposes may not, in and of themselves, constitute sexual harassment or other unlawful discrimination. However, those participating in the educational setting bear a responsibility to balance their professional academic responsibilities and academic freedoms with consideration of the reasonable sensitivities of other participants. Nothing contained in this policy shall be construed to limit the legitimate and reasonable academic responsibilities and academic freedoms of the College's professional educators.

### **VIII. Complaint Procedure<sup>1</sup>**

#### Reporting an Incident of Discrimination or Harassment/ Notification of Appropriate Staff

If any member of the Nichols College community has witnessed or been subjected to discrimination or harassment prohibited by this policy, whether by a supervisor, a co-worker, faculty member, student, vendor, contractor or any other person with whom the individual has come in contact at the College, the individual must report the incident promptly to any of the following persons:

#### **Title IX Coordinator**

**Pamela J. ("PJ") Boggio**

*Dean of Students*

121 Center Road

Dudley, MA 01571-5000

508-213-2480

[Pamela.boggio@nichols.edu](mailto:Pamela.boggio@nichols.edu)

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<sup>1</sup> Pursuant to the terms of the Coordination of Policy Against Discrimination, Harassment, and Retaliation and Sexual Misconduct Policy section above, all reports that may constitute a violation of the Sexual Misconduct Policy will be investigated in accordance with the processes described in the Sexual Misconduct Policy. Nichols community members should refer to the Sexual Misconduct Policy for information concerning the College's process for reviewing reports of sexual misconduct. See Sexual Misconduct Policy Appendix A: Process for Resolving Complaints of Sexual Misconduct Against Nichols Students, and Sexual Misconduct Policy Appendix B: Process for Resolving Complaints of Sexual Misconduct Against Nichols Faculty, Staff, and Nichols-Affiliated Third Parties.

**Deputy Title IX Coordinator**

**Katie A. Cushing**

*Assistant Director of Human Resources*

123 Center Road

3<sup>rd</sup> Floor Conrad Hall – Room 301

Dudley, MA 01571-5000

508-213-2111

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**Deputy Title IX Coordinator**

**Jessica Ryan**

*Community Standards Coordinator*

121 Center Road

Dudley, MA 01571-5000

508-213-2027

[Jessica.Ryan@nichols.edu](mailto:Jessica.Ryan@nichols.edu)

A Supervisor or Department Head

Any persons listed in the Title IX Sexual Misconduct Policy Appendix C.

Public Safety at (508) 213-2298. Public Safety can also assist in contacting Dudley Police when appropriate.

Any person who receives a complaint of harassment or discrimination from a student, faculty, staff or other College community member, or who otherwise knows or has reason to believe that a student, faculty, staff or other College community member has been subjected to harassment or discrimination, must report the incident promptly to one of the individuals listed above.

The only exception to this reporting requirement is that persons designated by Nichols as Confidential Resources need not share information they learn in confidence and may preserve confidence to the extent permitted by law. Information concerning Confidential Resources and Support is available in the Sexual Misconduct Policy at Section V, Part C.

Federal and state laws and regulations place certain requirements on Nichols College regarding the reporting of sexual harassment. No member of the community who receives a complaint of sexual harassment may ignore it. To the contrary, all College community members, other than those subject to confidentiality obligations imposed by law, are “Mandatory Reporters” who are required to report allegations of sexual misconduct and violations of this policy.

***College community members should also consult the Sexual Misconduct Policy for reporting obligations.***



## **IX. Timeliness in Reporting**

The College encourages the prompt reporting of complaints and concerns so that timely and effective action can be taken. The prompt reporting of incidents of any perceived discrimination or harassment allows the College to investigate while the memories of the individuals involved are fresh. Early reporting and intervention is the most effective method for resolving complaints of discrimination and harassment.

## **X. Investigatory Process**

The College will strive to promptly, equitably, and thoroughly investigate all complaints of discrimination, harassment, or retaliation it receives. Nichols will investigate complaints alleging that any member of the Nichols community has engaged in sexual misconduct and/or other Title IX violations in accordance with the processes set forth as Appendices to the College's Sexual Misconduct Policy. See Appendix A: Process for Resolving Complaints of Sexual Misconduct Against Nichols Students, and Appendix B: Process for Resolving Complaints of Sexual Misconduct Against Nichols Faculty, Staff, and Nichols - Affiliated Third Parties.

The College's Assistant Director of Human Resources or a designee will investigate all other complaints of discrimination, harassment, or retaliation the College receives concerning complaints against faculty or staff. The College's Community Standards Coordinator or a designee will investigate all other complaints of discrimination, harassment, or retaliation the College receives concerning complaints against students.

The College will not permit or otherwise charge a person who is the subject of a complaint to investigate that complaint. Whenever possible and as appropriate, investigations will include interviews with the individual filing the complaint, the person alleged to have committed the discrimination or harassment, third-party witnesses, and will also include consideration of other relevant evidence, which may include review of photographs, computer files, social media, e-mail accounts, voicemail records, and other records. Interim steps may be taken whenever necessary and may include separating parties involved in a complaint, administrative leave for any party involved in an investigation, or other measures necessitated by the circumstances.

When Nichols has completed its investigation of any complaint of discrimination, harassment, or retaliation that was not handled pursuant to the College's Sexual Misconduct Policy, the Assistant Director of Human Resources (in cases involving complaints against faculty or staff) or Community Standards Coordinator (in cases involving complaints against students) or a designee will inform both the Complainant and the subject of the complaint ("Respondent") that the College has concluded its investigation and the College's determination as to whether sufficient evidence exists to support the complaint. If it is determined that conduct in violation of this policy has occurred, the College will act promptly to eliminate the offending conduct, and where appropriate we may also impose disciplinary action against the Respondent up to and including separation from the College.

*Nichols retains full discretion to investigate potential violations of this policy as it deems appropriate and with the assistance of other members of the College community as necessary. Nothing in this policy shall prevent either the Assistant Director of Human Resources or the Community Standards Coordinator from convening or involving a Conduct Board where he/she deems appropriate.*

## **XI. Responsive Action**

If the College's investigation reveals that the Respondent has engaged in misconduct constituting discrimination, harassment, or retaliation, the College will take prompt remedial action towards eliminating the conduct, putting measures in place to prevent recurrence and correcting its effects, including, where appropriate, imposing discipline on the offender. Such disciplinary action, depending on the persons involved may include, among others, loss of College privileges, or further action as detailed below with respect to Staff & Faculty and students.

### ***Staff & Faculty***

In the event that the investigation reveals that harassment, discrimination, or other inappropriate or unprofessional conduct (even if not unlawful) in violation of this policy has occurred, further action will be taken, including disciplinary action, such as but not limited to reprimand, change in work assignment, loss of privileges, mandatory training or suspension and/or immediate termination.

### ***Students***

In the event that the investigation reveals that harassment, discrimination, or other inappropriate or unprofessional conduct (even if not unlawful) in violation of this policy has occurred, further action will be taken consistent with applicable student policies, including disciplinary action, such as but not limited to censure, disciplinary probation, loss of privileges, educational assignment, counseling, deferred suspension, suspension and/or dismissal.

## **XII. Confidentiality**

All actions taken to investigate and resolve complaints through this procedure shall be conducted with as much privacy, discretion and confidentiality as possible without compromising the thoroughness and fairness of the investigation. All persons involved are expected to treat the situation under investigation with respect. To conduct a thorough investigation, the investigator(s) may discuss the complaint with witnesses and those persons involved in or affected by the complaint, and those persons necessary to assist in the investigation or to implement appropriate disciplinary actions.

## **XIII. Protection against Retaliation**

Retaliation against an individual for reporting discrimination or harassment or assisting in providing information relevant to a claim of discrimination or harassment is a serious violation of College policy. Thus, if the College concludes that any member of the community has attempted to intimidate, threaten, or take adverse actions against someone for bringing forward a

good faith complaint of discrimination or harassment, the person found to have engaged in retaliatory conduct will be subject to appropriate disciplinary action, including but not limited to censure/reprimand, change in work assignment, loss of privileges, disciplinary probation, mandatory training, deferred suspension or suspension, and/or dismissal/termination. If the College finds that a member of the community has retaliated against someone for reporting knowledge of discrimination or harassment, that person will be subject to discipline by the College regardless of whether the College concludes that the reported discrimination or harassment more likely than not occurred.

Any concern of retaliation should be reported immediately and the College will promptly investigate.

#### **XIV. Title IX Coordination**

The College has designated the Dean of Students as the College's Title IX Coordinator. Deputy Title IX Coordinators designated as those persons charged with coordinating the College's implementation of the Nichols Sexual Misconduct are listed at Appendix C to the Sexual Misconduct Policy. See Appendix C: Title IX Team. Members of the Title IX Team may also be contacted to initiate an investigation under this Policy Against Discrimination, Harassment, or Retaliation, or to answer questions regarding this policy. The College also reserves the right to retain an outside investigator to investigate complaints regarding violations of this policy.

#### **XV. State and Federal Agencies**

In addition to or in lieu of filing an internal complaint with Nichols College, an employee (staff / faculty), student, or volunteer who believes that he or she has been subjected to unlawful discrimination, harassment, or retaliation may file a formal complaint with the government agencies that are identified below. Using the College's complaint process does not prohibit an employee from filing a complaint with these agencies.

Massachusetts Commission against Discrimination (MCAD)  
John McCormack building  
One Ashburton Place  
Sixth floor, Room 601  
Boston, MA 02108  
617-994-6000

The MCAD prohibits all forms of discrimination and sexual harassment in the workplace. The statute of limitations for filing a complaint is 300 days for the last date of discrimination.

Equal Employment Opportunity Commission (EEOC)  
JFK Federal building  
475 Government Center  
Boston, MA 02203  
800-669-4000

The EEOC prohibits all forms of discrimination and sexual harassment in the workplace. The statute of limitations for filing a complaint is 300 days for the last date of discrimination.

U.S. Department of Education, Office for Civil Rights (OCR)  
5 Post Office Square, 8th floor  
Boston, MA 02109-3921  
617-289-0111

While OCR complaints should generally be filed within 180 days of the last date of the alleged discrimination, OCR may extend this filing deadline in a variety of circumstances.

## **XVI. Conclusion**

Nichols strives to provide a campus environment free from discrimination and harassment. The College will make efforts to familiarize employees with this policy and to address and investigate and/or resolve appropriately every complaint received under this policy. Any member of the Nichols community who has questions or concerns about this policy should speak with the Dean of Students, Human Resources, or the Community Standards Coordinator. This policy works cooperatively with other College policies prohibiting discrimination and harassment consistent with this policy. As such, members of the Nichols community are encouraged to also review the policies and procedures of the student and faculty handbooks for further information.

As part of its commitment to maintaining a campus that is free from unlawful discrimination or harassment, the College requires all employees to undergo mandatory non-discrimination training at their time of hire, and every two years thereafter. Individuals who are members of the Title IX Team and otherwise engaged in Title IX compliance shall be trained on a yearly basis.