

# Discrimination and Harassment Policy & Procedure For Students and Employees

## Policy On Non-Discrimination and Harassment

In compliance with applicable federal, state and local laws, Russell Sage College ("Sage") does not discriminate on the basis of race, color, gender, gender characteristics and expression, sexual orientation, age, religion, actual or perceived national origin, actual or perceived gender identity, marital status, military or veteran status, physical or mental disability, status as a victim of a sexual assault, relationship violence, and/or stalking, genetic predisposition and carrier status, previous convictions as specified by law, or any other characteristics protected by applicable law (the "Protected Characteristics"), in any aspect of its admissions or financial aid programs, educational programs and related activities, or with respect to employment and advancement in employment. Sage is committed to providing a work and learning environment that is free from discrimination and harassment by anyone based on an individual's Protected Characteristics, or because the individual has engaged in activity protected by federal or state laws prohibiting discrimination.

Matters covered under these procedures in the employment relationship include, but are not limited to, recruitment, hiring, job assignment, compensation, promotion, discipline, termination, and access to benefits and training. Matters covered in the academic setting include, but are not limited to, admission, housing, allocation of financial aid, use of college facilities, and the assignment of grades.

The Director of Title IX & EEO Compliance has been designated by Sage to coordinate its efforts to comply with applicable nondiscrimination laws and regulations. Questions or concerns regarding the scope and application of Sage Discrimination and Harassment Policy & Procedure For Students and Employees (the "Policy") should be directed to the Director of Title IX & EEO Compliance, Dishpaul S. Dhuga, J.D., 518-244-4809, [titleix@sage.edu](mailto:titleix@sage.edu). Cait York, Director of Accessibility Services, is the individual designated by Sage to coordinate its efforts to comply with reasonable accommodation obligations towards qualified individuals with accessibility needs.

Questions or concerns regarding reasonable accommodation of individuals with accessibility needs should be directed to Sage Section 504 Compliance Officer, Cait York, Director of Accessibility Services, Library 3rd Floor, 518-292-8624 (Albany), 518-244-6874 (Troy).

## What Is Prohibited Harassment?

Prohibited harassment is a form of discrimination. In general, it can consist of spoken, written, and/or electronically transmitted words, signs, jokes, pranks, intimidation, or physical violence based on the protected characteristics of an employee or student, which alters the work or educational environment of that employee or student. While the most well-known type of prohibited harassment is sexual harassment, applicable laws and/or this policy also prohibit harassment based on any of the Protected Characteristics. In addition, retaliatory harassment resulting from an individual's protected activity (i.e., opposition to prohibited discrimination or participation in a statutory complaint process) is also prohibited. This prohibition applies to anyone on Sage campuses. Harassment of students who are working or studying outside the campus proper is prohibited as well. Sage is committed to preventing and correcting all such harassment, not just harassment which is severe or pervasive enough to provide the basis for a claim under federal or state law.

# Sexual Harassment

With respect to sexual harassment, Sage's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with Sage. In the remainder of this document, insofar as it relates to sexual harassment, the term "employees" refers to this collective group.

Sage is committed to maintaining a campus free from sexual harassment. Sexual harassment is unlawful and may subject Sage to liability. Any possible sexual harassment will be investigated whenever Sage receives a complaint or otherwise knows of possible sexual harassment occurring. Those who engage in sexual harassment will be subject to remedial and/or disciplinary action.

Under federal and state law, sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when:

- Such conduct is made either explicitly or implicitly a term or condition of employment or enrollment,
- Submission to or rejection of such conduct is used as the basis for employment or academic decisions; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive work or educational environment, even if the complaining individual is not the intended target of the sexual harassment.

However, this Policy prohibits all forms of sexual harassment, regardless of whether the harassment may give rise to a legal claim. A single incident of inappropriate sexual behavior may be enough to rise to the level of sexual harassment, depending on the severity of such incident.

Prohibited sexual harassment includes, but is not limited to the following:

- Physical assaults of a sexual nature, such as:
  - Rape, sexual battery, molestation, or attempts to commit these assaults; and
  - Intentional or unintentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body, or poking another employees' body.
- Unwanted sexual advances, propositions or other sexual comments, such as:
  - Requests for sexual favors;
  - Subtle or obvious pressure for unwelcome sexual activities;
  - Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience;
  - Spoken, written, and/or electronically transmitted verbal remarks of a sexual nature (whether directed to an individual or a group);
  - Sexually explicit, offensive, or sex-based jokes and comments; and
  - Sexual or gender-based comments about an individual or an individual's appearance.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning, pornographic.

A type of sexual harassment known as "quid pro quo" harassment occurs when a person in authority tries to trade job or academic benefits for sexual favors. This can include hiring, promotion, grading, scheduling, continued enrollment or employment, or any other terms conditions or privileges of enrollment or employment. To avoid the potential for quid pro quo sexual harassment, it is the policy of Sage that no sexual relationship should exist between supervisor (or evaluator) and subordinate, including between student

workers and their supervisors, or between teachers and students. If a sexual relationship develops in such a situation, the supervisory authority and/or responsibility for grading, evaluation, etc. should be promptly transferred to another individual.

Sexual harassment is neither limited by the gender of either party, nor limited to supervisor-subordinate or teacher-student relationships. Sexual harassment can occur between male and female students and employees, or between persons of the same sex. Sexual harassment that occurs because the victim is transgender is also unlawful.

## Supervisory Responsibilities

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the Director of Title IX & EEO Compliance.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

## Other Types of Harassment

Prohibited harassment on the basis of a Protected Characteristic, or any other protected basis, includes behavior similar to sexual harassment, such as: (1) verbal, written, and/or electronically transmitted conduct, including threats, epithets, derogatory comments, or slurs; (2) visual conduct, including derogatory posters, photographs, cartoons, drawings, or gestures; and (3) physical conduct, including assault, unwanted touching, or blocking normal movement. Sage will not tolerate any such harassment.

## Prohibition of Retaliation

It is a violation of federal and state law and this policy for any employee or student to retaliate against any student or employee for engaging in any protected activity under the Violence Against Women Act, the Clery Act, Title VI, Title VII, Title IX, the New York Human Rights Law, the ADA, the Rehabilitation Act, the ADEA, and other federal and state civil rights laws.

Unlawful retaliation can be any action, more than trivial, that would have the effect of dissuading a reasonable worker from making or supporting a charge of harassment or any other practices forbidden by the Law. Actionable retaliation by an employer can occur after the individual is no longer employed by that employer. This can include giving an unwarranted negative reference for a former employee.

This includes retaliating against a student or employee who opposes a discriminatory practice, makes a good faith complaint about harassment and/or discrimination, or furnishes information or participates in any manner in an investigation of such a complaint.

Retaliation includes any conduct directed at someone because he or she engaged in such protected activity, which might deter a reasonable student or employee from making or supporting a charge of harassment or discrimination. Protected activity can include any of the following:

- filing a complaint of discrimination or harassment, either internally with Sage, or with any anti-discrimination agency,
- testifying or assisting in a proceeding or investigation involving discrimination or harassment,
- opposing discrimination or harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of discrimination or harassment,
- complaining that another student or employee has been discriminated against or harassed,
- encouraging another student or employee to report discrimination or harassment, and
- requesting an accommodation for a disability or a religious practice.

Retaliation is unlawful and will not be tolerated. Any individual found to have engaged in retaliation will be subject to disciplinary action, up to and including, termination of employment and/or dismissal from Sage.

Any employee or student who becomes aware of retaliation against a student or employee should contact the Director of Title IX & EEO Compliance or other senior officer immediately.

## Confidentiality

Sage will, to the extent possible, maintain confidentiality with respect to complaints of discrimination and prohibited harassment. However, there is no such thing as an unofficial complaint of discrimination or harassment. Once Sage or its supervisors become aware of a complaint, Sage is required by law to take action consistent with this policy.<sup>[1]</sup> These actions may require disclosure of the allegations to the extent necessary to conduct a complete and thorough investigation.

## Complaint, Investigation, and Disciplinary Procedure for Employees and Students

### Reporting Prohibited Discrimination and Harassment

Any employee or student who believes he or she is the victim of prohibited discrimination or harassment should file a complaint with the Director of Title IX & EEO Compliance. If, for some reason, an employee or student does not feel comfortable reporting discrimination or prohibited harassment to the Director of Title IX & EEO Compliance, he or she may also report it to any senior officer of Sage.

When an employee or student files a report with the Director of Title IX & EEO Compliance, he or she will be given a written complaint form to complete. A sample copy of this form is provided below at Exhibit A. The Director of Title IX & EEO Compliance will also provide the accuser and the accused with copies of this Policy for review.

However, even if an employee or student victim chooses not to file a complaint with Sage, if Sage knows, or reasonably should know, about a suspected incident of discrimination or harassment, Sage will promptly investigate to determine what occurred and then take appropriate steps to resolve the situation.

All employees of Sage are responsible for keeping Sage's environment free from discrimination or prohibited harassment. For that reason, if an employee observes or otherwise learns of conduct which may constitute discrimination or prohibited harassment, the employee must report the conduct to the Director of Title IX & EEO Compliance, even if the employee is not the victim of that conduct.

## Investigation of Complaints

When Sage becomes aware that discrimination or prohibited harassment may exist, it is obligated by law to take prompt and appropriate action. Failure to do so is considered a violation of this Policy.

Once a complaint of discrimination or prohibited harassment has been made either in writing or orally, or observed discrimination or harassment has been reported, the Director of Title IX & EEO Compliance will make an initial assessment regarding the validity of the complaint. Unless the complaint is determined to be invalid (e.g. erroneous information, mistaken identity, etc.), the Director of Title IX & EEO Compliance, or his or her designee (who must be trained in discrimination and harassment, and this Policy), will promptly conduct a complete, thorough, and impartial investigation.

If the Director of Title IX & EEO Compliance or his or her adequately trained designee is involved in the alleged discrimination or harassment, the President will be responsible for choosing an adequately trained designee to conduct the investigation. If it would be inappropriate for the Director of Title IX & EEO Compliance or President to choose an adequately trained designee to conduct the investigation, then the Chair of the Board of Trustees will make this designation.

While the investigation is being conducted, interim measures will be available to end or limit contact between the complainant or accuser and the accused. Interim measures may include:

- support services (victim advocacy, housing assistance, academic support, counseling, health and mental health services, legal assistance);
- changing work assignments and situations (for employees);
- changing living arrangements, course schedules, assignments, or test schedules (for students);
- providing increased monitoring, supervision, or security; and
- providing an escort.

No complainant or accuser is required to take advantage of these interim measures, but Sage provides them in an effort to offer help and support. Such interim measures can be requested by a complainant or accuser, by contacting the Director of Title IX & EEO Compliance. Sage will protect the confidentiality of accommodations or protective measures provided to a complainant or accuser, to the extent that doing so will not impair Sage's ability to provide the accommodations or protective measures.

The standard of evidence used to evaluate a report of sexual harassment or discrimination is a "preponderance of the evidence." Under this standard, a determination must be made on the basis of whether it is more likely than not that the accused student or employee violated this Policy.

In investigating the complaint, the Director of Title IX & EEO Compliance, or designee, shall:

1. Request and review all relevant documents, including all electronic communications.
2. Discuss the allegations in the complaint with the accuser and accused at separate meetings, and provide the accuser and accused with equal opportunities to identify witnesses and present evidence supporting their respective positions at these meetings.
3. Provide the accuser and the accused with the same opportunities for a non-attorney support person or non-attorney advisor of their choice throughout the process, including any meeting, conference, hearing or other procedural action.
4. Interview any identified or known non-party witness(es).
5. Attempt, where appropriate, to resolve the complaint by exploring and suggesting possible solutions to the problem with all involved parties, provided, however, that the complainant or accuser will not be required to participate in mediation with the accused.

6. (If the preceding step does not resolve the problem), make and transmit a preponderance of the evidence determination in the matter of the allegation of discrimination/harassment to the accused, accuser, and, if the accused is an employee, the senior officer for the unit in which the accused is employed (or the President if the accused is a senior officer), or, if the accused is a student, the Vice President for Student Life.
7. Create a written report of the investigation which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
8. Keep the written documentation and associated documents in a secure and confidential location. The time necessary to complete an investigation will vary depending upon the facts of a particular case. In most cases, investigations will be completed within seven to ten business days of receipt of a complaint.

## Following the Investigation

Once the investigation is complete, the parties will be informed, in writing, of the outcome, including the finding, the sanctions (if any) and the rationale therefor. Delivery of this outcome will not be delayed to either party, and should occur as nearly simultaneously as possible, without unnecessarily bringing those in conflict into close proximity to each other.

All parties will be informed of their potential rights to exercise a request for appeal, where applicable, under the Student Code of Conduct, Employee Handbook, Contract, and/or collective bargaining agreement with Sage. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.

If the investigation reveals that discrimination and/or prohibited harassment did occur, Sage will take all appropriate remedial measures necessary to end such conduct, prevent any such future conduct, and correct any personnel or academic decisions made which are related to the prohibited conduct. Remedies may include, but are not limited to, continuing or commencing any of the above-listed "interim measures." These remedies are separate from, and in addition to, any interim measures that may have been provided prior to the conclusion of the investigation. Such measures can be requested by a complainant or accuser, by contacting the Director of Human Resources (for employees) or the Vice President of Student Life (for students).

## Discipline

Sage takes complaints of discrimination and prohibited harassment with the greatest seriousness. For that reason, if, following the investigation, the Director of Title IX & EEO Compliance or other trained investigator concludes that it is more likely than not that the accused student or employee violated this Policy, Sage will pursue strong disciplinary action through its own channels.

Internal disciplinary proceedings for cases of harassment and discrimination are fair and impartial, include timely notice of meetings and timely and equal access to information and evidence that will be used, and are conducted by unbiased decision makers who have no conflict of interest. The proceedings are completed within a reasonably prompt, designated timeframe. Further information regarding internal disciplinary proceedings for students can be found in the Student Code of Conduct. Further information regarding internal disciplinary proceedings for employees can be found in the Employee Handbook and/or in any applicable collective bargaining agreement with Sage.

Following any internal disciplinary proceeding for cases of harassment and discrimination, the complainant or accuser and accused will be provided with simultaneous written notice of the result of the proceeding, including any sanctions imposed that relate directly to the complainant or accuser, and the rationale for the result and complainant or accuser-related sanctions.

Discipline for incidents of discrimination and harassment may take a variety of forms, depending upon the circumstances of a particular case. Among the disciplinary sanctions which may be imposed on students are the following: verbal warning, written reprimand, probation, restrictions, suspension and expulsion. Among the disciplinary sanctions which may be imposed on employees are: verbal warning, written reprimand, suspension without pay, and termination. The full range of student disciplinary penalties is set forth in the Student Code of Conduct. Employee disciplinary penalties are set forth in the Employee Handbook and/or in any applicable collective bargaining agreement with Sage.

All parties will be simultaneously informed of their potential rights to exercise a request for an appeal of the disciplinary determination, where applicable, under the Student Code of Conduct, Employee Handbook, Contract, and/or collective bargaining agreement with Sage. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.

Engaging in discrimination, prohibited harassment, or retaliation may also lead to civil and/or criminal action under state or federal law. Any employee who, in violation of this Policy, engages in discrimination, prohibited harassment or retaliation, is acting outside the scope of his or her employment and may be personally liable for such actions and their consequences. In the event legal proceedings are commenced against such an employee, Sage may decline to provide legal, financial or other assistance.

## Legal Protections And External Remedies

Sexual harassment is not only prohibited by Sage but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at Sage, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

### State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to Sage does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

## Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

## Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in the City of Albany may file complaints of sexual harassment with the City of Albany Commission on Human Rights. Contact the Commission at City Hall, Room 301, 24 Eagle Street, Albany, NY 12207; call (518) 434-5296; or visit <https://www.albanyny.gov/Government/Departments/HumanResources/CommissiononHumanRights.aspx>.

## Office of Civil Rights

In addition, an employee or student who believes he or she is the victim of discrimination or harassment may file a complaint with the United States Department of Education's Office for Civil Rights ("OCR"). Complaints may be filed to OCR by:



- Mail or Facsimile: Complainants may mail or send a complaint by facsimile a letter to:  
U.S. Department of Education  
Financial Square  
32 Old Slip, 25th Floor, New York, NY 10005  
Telephone: 646-428-3906 | Fax: 646-428-3904
- E-mail: Complainants may file a complaint to the following e-mail address: [ocr@ed.gov](mailto:ocr@ed.gov).
- Online: Complainants may file a complaint with OCR using OCR's electronic complaint form at the following website: <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>.

## Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

<sup>[1]</sup> *College employees who learn of alleged discrimination or prohibited harassment as a result of privileged communications with a student (e.g., through a counseling relationship) are exempted from this requirement.*