SEXUAL HARASSMENT POLICY AND PROCESS

I. Policy
A. Policy: Agnes Scott College is committed to maintaining an environment in which all members of the community, staff, students, faculty, and visitors, are treated with respect and dignity. It is the policy of the college not to discriminate on the basis of sex in any of its programs, activities, or employment practices. Agnes Scott College prohibits sexual harassment in any form by any member of the Agnes Scott College community and by visitors to the campus, including guests, patrons, independent contractors, or clients of the college, and by those participating in off-campus college programs, such as study abroad programs, internships, student teaching, and experiential learning.

Sexual harassment is prohibited by Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972. Conduct that might not be held to violate these statutes may nonetheless be considered sexual harassment under college policies and the college condemns and prohibits conduct that is sexually harassing even if such conduct would not be adjudged illegal.

B. Definition: Unwelcome verbal or physical conduct (whether of a sexual nature or not) that is directed at individuals on the basis of their gender, or that demeans persons because of their gender, constitutes sexual harassment when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic treatment or status in a course or other college activity. This includes when:

1. Submission to or rejection of such conduct by an individual is used as a basis for decisions affecting that individual's employment, academic status, or participation in any college activity; or

2. Such conduct significantly interferes with an individual's work performance or academic performance or with an individual's ability to participate in or benefit from any college activity.

C. Academic freedom respected: The college is committed to academic freedom as stated in Section II of the Faculty Handbook, Statement on Academic Freedom and Responsibility, and complaints will be evaluated consistently with this policy. The academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the appropriate content and presentation of germane academic material. Material germane to a course may sometimes offend or disturb; however, intimidation and harassment are inconsistent with the maintenance of academic freedom on campus and violate the ethical and professional responsibilities of faculty members to avoid any exploitation of students for private advantage.

II. Procedures
A. Direct resolution: Anyone experiencing or observing sexual harassment is encouraged to explain clearly to the alleged offender that the behavior is objectionable and request that it cease. If such an objection does not seem safe or efficacious, or if after the objection is raised the conduct does not cease, the person experiencing or observing the offending conduct should promptly report the complaint to an officer of the college or to the Director of Human Resources.
B. Initiation of a report or complaint

1. Timeliness: Reports and complaints of sexual harassment should be initiated as soon as possible after the incident(s) occurs in order to aid effective investigation. All reports and complaints will be promptly investigated and appropriate action will be taken to remedy the problem as expeditiously as possible. (See below for specific timelines if a complaint is filed.)

2. Non-retaliation: Anyone who submits a report (“reporter”) or complaint (“complainant”) will be protected from retaliation in any form. Anyone who knowingly makes false accusations will be subject to appropriate disciplinary action consistent with college policies and procedures.

3. Confidentiality: The college will respect the privacy of reporters and complainants, of persons against whom the complaint is made (“respondents”), and of witnesses in a manner consistent with the College’s duty to investigate, to take appropriate remedial actions, and to comply with any discovery or disclosure obligations required by law.

4. Due process: The college will make every reasonable effort to protect the rights of both complainants and respondents.

5. Initial report: All students and employees should report any sexual harassment that they experience or about which they have credible evidence to a college officer or to the Director of Human Resources. No one should assume that an official of the college already is aware of any given instance of alleged sexual harassment. Any member of the college community who knows of or receives a complaint of harassment should report the information or complaint to a college officer (“officer”) or the Director of Human Resources (“Director”).

6. Informational meeting: Anyone experiencing sexual harassment or having credible evidence of the occurrence of sexual harassment should meet with a college officer or the Director of Human Resources. At this meeting, the reporter should explain the basis for the report. The officer or Director should explain the college’s policies and procedures against sexual harassment. The officer or Director should clarify for the reporter the types of information that will automatically initiate further procedures.

7. Informal resolution: After discussing the report of sexual harassment with the reporter, if the officer or Director believes that the situation might be best resolved informally, or that the conduct does not rise to the requisite level of severity or pervasiveness or for any reason does not violate the college’s policy against sexual harassment, or that the complaint rests on misperceptions or miscommunication, the officer or Director may attempt an informal resolution of the complaint. This attempt at informal resolution may include further fact-finding, consultation with involved parties, including the respondent, mediation attempts, or other reasonable means to resolve the situation or remedy the conduct informally. If informal resolution is attempted, however, the identity of the reporter will be kept confidential, unless the reporter gives permission to divulge her or his identity, and no resolution will be imposed that is not agreed to by all parties involved. Informal investigations and resolution attempts may be terminated at any time by the filing of a written complaint. In any event, the informal resolution process must be concluded within one month of the informational meeting, unless extended by consent of the reporter and the respondent. Information and accusations contained in reports or gathered in the process of informal investigations shall be kept in a confidential file in the Office of Human Resources. Information about an individual in this file may be accessed for the purpose of investigating future reports of sexual harassment, but may not be used as a basis for making personnel decisions. Records of informal
resolutions shall be kept in a confidential file in the Office of Human Resources and may be used as a basis for future personnel decisions only with the consent of the respondent to the informal resolution. Information about respondents who are students shall be kept in a confidential file in the Office of Human Resources for the purpose of investigating future reports of sexual harassment and may only be accessed by the investigating officer and director of human resources.

8. Written complaint: At any point during the process of informal resolution any person believing him or herself to have experienced sexual harassment may initiate a formal process of investigation and resolution by filing a written statement explaining the basis of the complaint. Any college officer or the Director of Human Resources may initiate formal procedures to investigate and resolve conduct suspected of constituting sexual harassment on the basis of substantial credible evidence. Past reports of sexual harassment alone do not constitute substantial credible evidence; the officer or DHR must have evidence about current conduct to file a complaint. If the officer or Director initiates the process of investigation and resolution, the officer or Director must also put in writing the complaint and explanation of the substantial credible evidence that warrants the initiation of the investigation and resolution process.

C. Investigation of the complaint

1. Investigation board: On the basis of a written complaint, an investigation board shall conduct a prompt and thorough investigation of the conduct that forms the basis of the complaint. The board shall be comprised of the officer who supervises the person named as the harasser in the complaint (“respondent”), the Director of Human Resources, the chair of the Faculty Executive Committee, the President of Honor Court, and one additional member chosen from the respondent’s constituency (if a faculty respondent, a second faculty member to be named by the Faculty Executive Committee; if a student respondent, a second student to be named by Honor Court; if a staff respondent, a second staff member to be named by the staff members’ organization). The officer shall serve as chair of the investigation board.

2. Conflict of interest: If any member of the investigation board is a party to the complaint or has any other conflict of interest that would prevent her or him from adjudicating the complaint in a fair and impartial manner, the president of the college will decide the existence of such a conflict and designate a substitute of similar status to serve on the investigation board. If for any reason it is not appropriate or possible for the president to do so, the chair of the board of trustees will designate a substitute.

3. Informing the parties: The Director shall inform the respondent of the existence of the complaint, provide a copy of the written complaint, and provide a copy and information about the college’s policies and procedures against sexual harassment. The Director shall also inform the respondent of the identity of the complainant. The Director will also furnish, in writing, to both complainant and respondent, a statement explaining the rights and responsibilities of all parties, including rights to confidentiality in so far as possible consistent with the need to investigate and resolve the complaint, the guarantee of non-retaliation, and the process for imposing sanctions and appealing resolutions.

4. Investigation: The board shall conduct a thorough, fair, and expeditious investigation based on written evidence and interviewing of all witnesses who, in the opinion of the board, can shed light on the merits of the complaint and the conduct of the respondent. The complainant and respondent shall have the right to present any witnesses and information that in their opinion can provide valid and relevant evidence. The parties may also suggest questions to any witnesses, but questioning shall be done by the chair of the investigation board, whose judgment about the appropriateness and wording of questions, after consultation with other board members on any questions she/he deems necessary, shall be final. All
parties have the right to be assisted by up to three advocates of their choosing, although practicing attorneys shall not be present at hearings of the investigation board.

5. Remedial measures during the course of investigation: At any point after the filing of a written complaint, the president of the college may place the respondent on administrative leave with pay or suspend the respondent without pay. Summary suspension shall be imposed only when, in the judgment of the President, the respondent’s presence on campus would constitute a threat to the safety and well-being of members of the campus community. Before implementing the suspension, the accused individual shall be given written notice of the intention to impose the suspension and shall be given an opportunity to present oral and written arguments against the imposition of the suspension. If the respondent is suspended, the formal process should be completed within the shortest reasonable time possible, not to exceed ten working days. During the suspension, the respondent may not enter campus without obtaining prior permission from an officer of the college.

D. Resolution

1. Finding of fact: Within two months of the filing of the complaint, unless the respondent has been suspended (see preceding paragraph) or the time period is extended by the consent of the complainant and the respondent, the investigation board shall make appropriate and well-grounded findings regarding the factual basis of the complaint. The board may also make recommendations to the appropriate college officer regarding a just and reasonable remedy, including the possible imposition of penalties.

2. Resolutions: The appropriate college officer, based on the findings and recommendations of the investigation board, will take appropriate remedial actions and will follow up as necessary to ensure that the remedial actions are effective. The officer’s decision about the proper course of action to resolve the complaint shall be communicated to the complainant and respondent within one month of the submission of the investigation board’s findings and recommendations. A copy will be filed in the appropriate college records (in the case of employees, their personnel files; in the case of students, in their student records files).

3. Imposition of penalties: The appropriate college officer may impose penalties ranging from an oral or written warning up to and including suspension or dismissal from the college, unless the respondent is a full-time faculty member.

4. Suspension or dismissal of faculty: the Dean of the College’s decision to suspend or terminate a full-time faculty member holding a continuous appointment or a probationary or term contract before its expiration is a recommendation only and triggers the procedures for dismissal for cause under Dismissal of Teaching Faculty Policies and Procedures (Faculty Handbook).

E. Appeals: Either party may appeal the decision, in writing, within 5 days of receipt of the written decision by the investigative board, through standing procedures which include the faculty grievance process, student Judicial Board and union staff grievance process. Administrative staff may appeal directly to the president or her designee. Any decision rendered through the appeal process shall be final.

F. Documentation: The Director of Human Resources is responsible for keeping a record of the entire formal complaint process, including all complaints, answers, written evidence, notes from hearings, other documentary evidence from the investigation and appeals processes, and documentation of remedial actions taken and any evidence concerning their effectiveness. This record shall be maintained in a confidential file in the Office of Human Resources, and shall be available to managers and RPT
committees for use as appropriate in making personnel decisions. Information about respondents who are students shall be kept in a confidential file in the Office of Human Resources for the purpose of investigating future reports of sexual harassment and may only be accessed by the investigating officer and director of human resources.


CONSENSUAL SEXUAL RELATIONSHIPS

1. Among employees:

   Sexual, intimate and/or romantic relationships (even consensual ones) between college employees and those they supervise are potentially exploitive because of the imbalance of power inherent in them. Employees must avoid relationships that pose threats to the fulfillment of their professional duties or call into question the consensual nature of their relations.

   The college prohibits employees from supervising, evaluating, or determining the terms or conditions of employment of anyone with whom they have a sexual relationship. When a sexual relationship exists between any employees in a supervisory relationship, immediate steps must be taken to terminate the supervisory arrangement, and alternative means of supervision must be implemented.

   If employees in a supervisory relationship have had a sexual relationship in the past or have a continuing or past intimate relationship, either party may request that alternative means of supervision be implemented.

   Any employee who violates this policy will be subject to disciplinary action, up to and including termination of employment.

2. Among undergraduate students and faculty:

   Sexual relationships between faculty members and undergraduate students are inconsistent with the mission of the college and inappropriate because they carry a risk of damaging the student's educational experience and the faculty member's career. The college thus prohibits sexual relationships, even of a consensual nature, between faculty members and currently enrolled students. Faculty members are strongly advised to exercise their best professional judgment concerning student-faculty relationships and to consider that intimate relations with students, even of a non-sexual nature, can be fraught with difficulties and the appearance of impropriety.

3. Among graduate students and faculty:

   The college discourages sexual relationships between graduate students and faculty members not in the same program. The college prohibits sexual relationships between faculty members and graduate students in the same program or students whom they supervise, evaluate, or teach.

4. Among students and non-faculty employees:
For the same reasons that faculty are prohibited from having sexual relations with students, Agnes Scott College prohibits non-faculty employees from having sexual relationships with students whom they employ, supervise, evaluate, counsel, advise, or potentially discipline.

5. Prior relationships:

The foregoing policies do not apply to persons whose consensual sexual relationships antedate their enrolling or being employed at Agnes Scott College. If a teaching or supervisory relationship exists between persons with such a prior relationship, this relationship must be disclosed and, alternative means of supervision must be implemented.

All faculty and staff at Agnes Scott College should understand that romantic or sexual relations with students or employees in violation of this policy may lead to disciplinary action by the college, up to and including dismissal and/or may lead to legal action by complainants.

Approved by Executive Council, July 2006