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# Civil Rights Policy: I. Policy Statement, Entities Covered, Contacts, and Definitions

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# Policy Statement

As an institution of higher education, Claremont McKenna College (“CMC” or “the College”) is firmly committed to providing equal opportunity for all our community members, irrespective of an individual’s background. The College strives to maintain a community in which all people respect the rights of other people to live, work, and learn in peace and dignity; to be proud of who and what they are; and to have equal opportunity to realize their full potential as individuals and members of society.

As such, CMC seeks to maintain an academic, residential and working environment for students, faculty, staff, and visitors free from all forms of discrimination and harassment prohibited by law,

including sexual misconduct (such as dating violence, domestic violence, and stalking), hate crimes, and issues arising under the Rehabilitation Act and the American with Disabilities Act.

The College has adopted this Policy on Civil Rights, Discrimination, Harassment, Sexual Misconduct, and Related Matters (the “Policy”) to reflect and maintain its institutional values and community expectations with respect to discrimination, harassment, hate crimes, stalking, intimate partner violence, and sexual misconduct, including:

- Take necessary steps to respond appropriately
- Utilize best practices to educate the community to reduce the likelihood of events occurring and address such behavior and remedy its effects;
- Providing for fair and equitable procedures for determining when Prohibited Conduct has occurred and providing recourse for individuals and the community in response to such violations.

This Policy extends to all categories or classifications of individuals or groups who are legally protected from discrimination or harassment, including: race, color, national origin, ancestry, citizenship, religion (including religious dress and appearance), gender, sex (which includes pregnancy, childbirth, lactation, and related medical conditions), sexual orientation, status as a victim of domestic violence, sexual assault, or stalking, age, physical disability, mental disability, medical condition, marital status, military status, veteran status, genetic information, or any other characteristic that may be specified in such laws and regulations, as well as the perception that a person has any of those characteristics (“Protected Status”). (Protected Status). Gender includes both the physiological sex of an individual and that person’s gender identity, appearance, or behavior, regardless of whether that identity, appearance, or behavior is traditionally associated with that person’s sex at birth.

This Policy is established in compliance with the California Equity in Higher Education Act, Title IX, VAWA/Campus SaVE Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975, among other applicable state and federal laws governing employers and private colleges.

# Academic Freedom and Freedom of Expression

This Policy is consistent with the College's core values of academic freedom and free expression. The College has adopted the University of Chicago's Statement on Academic Freedom, which is incorporated in full here:

From its very founding, the University of Chicago has dedicated itself to the preservation and celebration of the freedom of expression as an essential element of the University's culture. In 1902, in his address marking the University's decennial, President William Rainey Harper declared that "the principle of complete freedom of speech on all subjects has from the begin-

ning been regarded as fundamental in the University of Chicago" and that "this principle can neither now nor at any future time be called in question."

Thirty years later, a student organization invited William Z. Foster, the Communist Party's candidate for President, to lecture on campus. This triggered a storm of protest from critics both on and off campus. To those who condemned the University for allowing the event, President Robert M. Hutchins responded that "our students ... should have freedom to discuss any problem that presents itself." He insisted that the "cure" for ideas we oppose "lies through open discussion rather than through inhibition." On a later occasion, Hutchins added that "free inquiry is indispensable to the good life, that universities exist for the sake of such inquiry, [and] that without it they cease to be universities."

In 1968, at another time of great turmoil in universities, President Edward H. Levi, in his inaugural address, celebrated "those virtues which from the beginning and until now have characterized our institution." Central to the values of the University of Chicago, Levi explained, is a profound commitment to "freedom of inquiry." This freedom, he proclaimed, "is our inheritance."

More recently, President Hanna Holborn Gray observed that "education should not be intended to make people comfortable, it is meant to make them think. Universities should be expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of the greatest freedom." The words of Harper, Hutchins, Levi, and Gray capture both the spirit and the promise of the University of Chicago. Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the University, the University of Chicago fully respects and supports the freedom of all members of the University community "to discuss any problem that presents itself."

Of course, the ideas of different members of the University community will often and quite

naturally conflict. But it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality

interests, or that is otherwise directly incompatible with the functioning of the University. In addition, the University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University's commitment to a completely free and open discussion of ideas.

In a word, the University's fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University's educational mission.

As a corollary to the University's commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.

As Robert M. Hutchins observed, without a vibrant commitment to free and open inquiry, a university ceases to be a university. The University of Chicago's long-standing commitment to this principle lies at the very core of our University's greatness. That is our inheritance, and it is our promise to the future.

# Entities Covered by this Policy

## Timing

This Policy applies to all reports of Prohibited Conduct occurring on or after the effective date of the Policy. Where the date of the reported Prohibited Conduct precedes the effective date of this Policy, the definitions of misconduct in existence at the time of the reported Prohibited Conduct will be used. However, the Grievance Procedures set forth in this Handbook will be used to investi-

gate and resolve all reports made on or after the effective date of this Handbook, regardless of when the incident(s) occurred.

## Persons Covered

This Policy applies to all members of the Claremont McKenna community including: students, faculty, staff, alumni, volunteers, vendors, contractors, visitors, third parties, and individuals regularly or temporarily employed, conducting business, studying, living, visiting, or having any official capacity with the College or on its property. This means that all such individuals are protected from discrimination, harassment, or sexual misconduct and other Prohibited Conduct within the scope of this Policy. This also means that all such individuals may be found responsible and subject to disciplinary sanctions in relation to engaging in any Prohibited Conduct.

The College strongly encourages reports of Prohibited Conduct regardless of who engaged in the conduct. Even if the College does not have jurisdiction over the Respondent, the College will take prompt action to provide for the safety and well-being of the Claimant and the broader campus community.

## Activities and Locations Covered

This Policy applies to all of the College's activities and programs, regardless of whether any Prohibited Conduct occurred on or off campus. Additionally, if Prohibited Conduct between members of the College community occurred off campus and did not involve a College activity or program, the Handbook still applies if the conduct has an effect on or threatens a CMC community member.

## Relationship to the Other Claremont Colleges

In circumstances involving parties from more than one campus within The Claremont Colleges, the following interpretations and understandings will apply:

- The Respondent's home institution will be responsible for administering any grievance or other

disciplinary process.

- The College will coordinate with the Respondent's home institution in the investigation of the matter and will take steps to stop the conduct and remedy its effects to the extent reasonably possible.
- The College maintains its authority to take action to ensure campus safety.

## The Claremont Colleges Title IX Policy

This policy covers prohibited conduct that occurs on the basis of sex that does not fall within the definitional or jurisdictional requirements of the federal regulations essential to the TCC Title IX Policy. The conduct covered in this Policy may also be covered under The Claremont Colleges (TCC)

Title IX Policy. Alleged sexual harassment that is covered under TCC Title IX Policy will be referred to the TCC Title IX Grievance Procedures.

## Contacts

CMC Office of Civil Rights

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Chief Civil Rights Officer

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## Definitions

These definitions apply throughout the Policy:

- **Accommodations:** generally refers to services beyond those normally provided by the College, or exceptions to academic or other policies of the College that may be appropriate to support the Claimant, Respondent, or any other individual and which may be independent of any Grievance Process. Examples include providing alternate housing, offering academic adjustments (alternate classes, tutoring, rescheduling exams, or dropping a course), providing

adjustments (alternate classes, tutoring, rescheduling exams, or dropping a course), providing escorts on campus, facilitating leaves of absences or other support. The term “Accommodations” is not interchangeable with “reasonable accommodations” or “appropriate accommodations” as described in the context of a Disability, as that term is defined below.

- **Adverse Action:** means an action or decision that has a substantial and material adverse effect on Claimant’s employment or ability to participate in a College program or activity free from Discrimination or Harassment. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a Claimant does not constitute an Adverse Action.
- **Age:** with respect to employment discrimination, refers to the chronological age of any individual who has reached a 40th birthday.[1] With respect to discrimination in non-employment programs and activities, Age means how old a person is, or the number of years from the date of a person’s birth.[2] In both instances, Age is a Protected Status.
- **Business days:** means Monday through Friday, excluding legal and College holidays.
- **Claimant:** the person who may have experienced Prohibited Conduct. The College uses this term for ease of reference and to be consistent with terminology commonly used by the Department of Education’s Office of Civil Rights. As the College’s process to resolve alleged violations of civil rights is neutral, use of this term does not signify the College’s endorsement of the allegations.
  - **Institution as Claimant:** a designated College official/office who acts in the capacity of a Claimant when a Claimant is unavailable or unwilling to participate in the Grievance Process and it has been determined that the matter must nevertheless proceed through the Grievance Process.
- **Complaint:** means a report of a violation of Prohibited Conduct under this Policy to a Responsible Employee.
- **Chief Civil Rights Officer:** the designated College official responsible for the development and implementation of a comprehensive program for compliance with civil rights laws, including but not limited to the oversight and administration of this Policy. The Chief Civil Rights Officer oversees all matters dealing with discrimination, harassment, hate crimes, and Faculty/Staff Title IX matters.
- **Disability:** is a Protected Status and, as defined in California Government Code § 12926 and the federal Americans with Disabilities Act (ADA), 2008 Amendments, means:
  - Having a physical or mental condition that limits a major life activity. “Limits” means making the achievement of a major life activity difficult. “Limits” is determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity. A “major life activity” is broadly construed and includes physical, mental, and social activities (such as walking, talking, seeing, hearing) and working; or
  - Having a known history of a qualifying impairment; or
  - Being regarded or treated as having or having had a qualifying impairment; or
  - Being regarded or treated as having or having had such an impairment that has not

presently disabling effects but may become a qualifying impairment in the future.

The College provides reasonable accommodations to qualified individuals with a Disability based on an interactive process with those involved to identify the nature and extent of the impairment or limitation and the appropriate accommodation.

- **Discipline:** means any disciplinary action taken to correct a violation of Prohibited Conduct as set forth in this Policy. Discipline for employees includes, but is not limited to, suspension without pay, demotion and termination of employment. Discipline for students includes, but is not limited to, probation, suspension, and expulsion. Suspension of one academic year or more, expulsion, withdrawal in lieu of suspension or expulsion, and withdrawal with pending misconduct investigation or disciplinary proceeding shall be entered on the student's transcript

permanently without exception; this requirement cannot be waived in connection with any settlement agreement.

- **Disparate Treatment:** means the different treatment of someone because of their inclusion in a protected class.
- **Faculty or "Faculty Member":** means any employee of the College holding an appointment to the faculty, including all tenured, tenure-track, visiting, and part-time appointments. This includes head coaches on renewable contracts in the Department of Athletics, Physical Education, and Recreation.
- **Force or threat of force:** means the use of force or violence, or the threat of force or violence, including but not limited to (1) when the Respondent threatens to use force or violence on the Claimant or on any other person, and the Claimant under the circumstances reasonably believes that the Respondent has the ability to execute that threat or (2) when the Respondent has overcome the Claimant by use of superior strength or size, physical restraint or physical confinement.
- **Gender:** means sex, and includes a person's gender identity and gender expression.<sup>[3]</sup> Gender expression means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. Sex includes but is not limited to pregnancy, childbirth, breastfeeding or associated medical condition(s).<sup>[4]</sup> They are Protected Statuses.
- **Genetic Information:** is a Protected Status and means<sup>[5]</sup>:
  - The Student's genetic tests.
  - The genetic tests of the Student's family members.
  - The manifestation of a disease or disorder in the Student's family members.
  - Any request for, or receipt of genetic services, or participation in clinical research that includes genetic services, by a Student or any Student's family member.
  - Genetic Information does not include information about any Student's sex or age.
- **Grievance Procedures:** the rules the College will follow when adjudicating an allegation of Prohibited Conduct.

- **Interim Measures:** generally refers to remedies or adjustments that may have a material impact on Respondent's rights and privileges at the College, but which are appropriate to provide for the safety of the Claimant or the community. Examples include but are not limited to:
  - Issuing a "no contact" letter;
  - Housing adjustments;
  - Reasonable changes to work/class schedules;
  - Suspending or limiting access to College facilities or activities (student government positions, athletics, study abroad/sponsored travel, Commencement); and,
  - Imposing a non-disciplinary, interim suspension on a student, or non-disciplinary leave of absence on a faculty or staff member.
  - Depending on the circumstances, Interim Measures may be modified, supplemented or withdrawn before, during or after the final outcome of any investigation.
- **Investigator:** means the person tasked by the Title IX Coordinator with investigating a Complaint. Investigators generally receive annual training regarding such issues as the laws governing Discrimination, Harassment and Retaliation; Title IX and VAWA/Campus SaVE Act; as well as other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender or Sex, including Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, and Stalking; Claimant, Respondent, Employee, and witness privacy rights; and the Family Educational Rights and Privacy Act of 1974 (FERPA). For matters involving Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking, the Investigator shall also receive annual training on how to conduct an investigation process that protects the safety of the Claimant(s) and the College community.
- **Marital Status:** is a Protected Status and means an individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state.<sup>[6]</sup>
- **Medical Condition:** is a Protected Status and means either of the following:
  - Any health impairment related to or associated with a diagnosis of cancer or a record of history of cancer; or
  - Genetic characteristics, which includes any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of the disease or disorder in a person or that person's offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder, as well as inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or that person's offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.<sup>[7]</sup>

- **Nationality.** includes citizenship, country of origin, and national origin and is a Protected Status.[\[8\]](#)
- **Non-Disciplinary, Administrative Measures:** refers to measures that may be appropriate in response to a report and which may be independent of any Grievance Procedures. Examples include educational initiatives or trainings, or other forms of remedial, community-based responses.
- **Parties:** to a Complaint are Claimant(s) and Respondent(s).
- **Physical abuse:** includes sexual abuse and means any of the following: (1) the knowing or reckless use of physical force, confinement, or restraint; (2) knowing, repeated, and unnecessary sleep deprivation; and/or (3) knowing or reckless behavior that creates an immediate risk of physical harm.
- **Policy:** means this Policy on Discrimination, Harassment, Sexual Misconduct, and Related Matters.
- **Preponderance of the Evidence:** means the greater weight of the evidence; i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. The Preponderance of the Evidence is the applicable standard for determining facts and reaching conclusions in an investigation conducted pursuant to this Policy.
- **Protected Status:** including: race, color, national origin, ancestry, citizenship, religion (including religious dress and appearance), gender, sex (which includes pregnancy, childbirth, lactation, and related medical conditions), sexual orientation, status as a victim of domestic violence, sexual assault, or stalking, age, physical disability, mental disability, medical condition, marital status, military status, veteran status, genetic information, or any other characteristic that may be specified in such laws and regulations, as well as the perception that a person has any of those characteristics (“Protected Status”). Gender includes both the physiological sex of an individual and that person’s gender identity, expression, appearance, or behavior, regardless of whether that identity, appearance, or behavior is traditionally associated with that person’s sex at birth.
- **Race or Ethnicity:** includes ancestry, color, ethnic group identification, and ethnic background and is a Protected Status.[\[9\]](#)
- **Religion:** is a Protected Status and includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism. Religious dress and grooming practices, such as wearing religious clothing, head or face covering, jewelry, and artifacts, are part of a Claimant’s religious observance or belief.[\[10\]](#)
- **Reasonable Person:** means a reasonable person under similar circumstances and with the same Protected Status(es) as Claimant.
- **Respondent:** the person who is alleged to have engaged in Prohibited Conduct. The College uses this term for ease of reference and to be consistent with terminology commonly used by the Department of Education’s Office of Civil Rights. As the College’s process to resolve alleged violations of civil rights is neutral, use of this term does not signify the College’s endorsement of the allegations.

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- **Responsible Employee:** a College employee or agent who is generally required to take immediate and appropriate responsive action when they know, or, in the exercise of reasonable care, should have known about discrimination, harassment, sexual misconduct, or other Prohibited Conduct.

A Responsible Employee includes any employee who:

- Has the authority to take action to redress the discrimination or harassment; or,
- Has the duty to report incidents of potential discrimination or harassment to appropriate College officials; or
- A student or employee could reasonably believe has the authority or responsibility to take action.

Employees with supervisory and leadership responsibilities on campus are considered Responsible Employees. All exempt employees are considered Responsible Employees. These employees include faculty, coaches, administrators, resident advisors, and others with a responsibility for the welfare of our students, faculty, staff, and visitors. The Chief Civil Rights Officer, Title IX Coordinator, Deputy Title IX Coordinators, Deans or Assistant Deans in the Dean of Students Office, and Campus Safety Officers are all Responsible Employees. This list is not exhaustive.

- **Staff or Staff Member:** means any employee of the College who is not a member of the Faculty or a student, including includes full-time, part-time, probationary, and temporary positions. In addition, for the purposes of this Policy:
  - Assistant coaches and other employees within the Department of Athletics, Physical Education, and Recreation, and teachers and all other employees with The Children's School are considered Staff.
  - CMC students may also be employed by CMC in various campus jobs. Allegations which arise out of a student's employment relationship with CMC will be analyzed as Work Environment claims.
- **Student:** means any student enrolled at the College, including any student currently serving a suspension or interim suspension, or any who withdraws from the College while a disciplinary matter (including investigation) is pending.
- **Third Party:** any other person participating in the Response Procedures or Grievance Procedures. A Third Party may also be a Witness or an individual who makes a report on behalf of a Claimant.
- **Title IX Coordinator/Deputy Title IX Coordinators:** designated College personnel responsible for overseeing the College's compliance with Title IX, the VAWA Amendments to the Clery Act, and California Education Code Sections 67380-67386. As monitors of the Grievance Procedures, these personnel are dedicated to ensuring that the procedures are fair and neutral. They do not advocate for a Claimant or Respondent nor guide the process to a pre-determined outcome. For efficiency, whenever the term "Title IX Coordinator" is used in

these policies, it encompasses “Deputy Title IX Coordinators” as well, when the Title IX Coordinator has so designated. The Title IX Coordinator will oversee all matters concerning sexual misconduct, stalking, and intimate partner violence with students and third parties. The Title IX Coordinator (for Complaints alleging Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking) shall monitor, supervise, and oversee the investigation to ensure that it is conducted in accordance with the standards, procedures and timelines set forth in this Policy.

- **VAWA:** means the Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery Disclosure of Campus Crimes Statistics Act, commonly known as the Clery Act) (20 U.S.C. 1092(f)), under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act).
- **Veteran or Military Status:** may be Protected Statuses and means service in the uniformed services.
- **Witness:** a person asked to give information about a matter under review pursuant to the Response Procedures or Grievance Procedures.

[1] See Cal. Gov. Code § 12926(b).

[2] See 34 C.F.R. § 110.3.

[3] See Cal. Educ. Code §66260.7.

[4] See Cal. Gov. Code § 12926(r); 24 C.R.R. § 106.40.

[5] See Cal. Civ. Code § 51(2)(a) - (c).

[6] See 2 Cal. Code Regs. § 11053.

[7] See Cal. Gov. Code § 12926(i).

[8] See Cal. Educ. Code § 66261.5.

[9] See Cal. Educ. Code § 66261.7.

[10] See Cal. Educ. Code § 66262.



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