I. Statement of Policy

Canisius College strives to provide an educational and working environment that is free from all forms of discrimination and harassment and is committed to providing an environment that treasures diversity and emphasizes the dignity and worth of every individual, and environment in which every individual is treated with respect. Discrimination or harassment in any form is inimical to these goals and fundamentally at odds with the values of Canisius College. They are unacceptable behaviors and will not be tolerated.

The College prohibits discrimination on the basis of sex in its education programs and activities, including in employment and admissions, in compliance with Title IX of the Education Amendments of 1972. Prohibited sex discrimination includes sexual harassment and sexual violence. The College also prohibits discrimination or harassment based on any other legally protected status, including, but not limited to race, religion, sexual orientation, age, disability, marital, and military status, and harassment in general based on any other factor.

The College also prohibits retaliation by any person against any person for filing or supporting a complaint under this policy.

The protections and prohibitions in this policy apply to all Canisius employees and students and third parties visiting or doing business with the College. Employees and students may file complaints under this policy regarding conduct prohibited by it. Visitors to and persons doing business with the College may notify the College of a violation of this policy by contacting Terri L. Mangione, PhD, Vice President for Student Affairs/Dean of Students

This policy is designed to do the following:

- reaffirm the College’s commitment to providing a positive, humane environment for study and work free from discrimination, harassment and retaliation;
- let all members of the College community know what kind of conduct is expected and what kind of conduct is proscribed;
- inform victims of discrimination, harassment and retaliation, including sexual harassment and sexual violence, of their options and rights;
- inform all members of the College community about the procedures available at the College for addressing, investigating, and resolving discrimination, harassment and retaliation complaints, including sexual harassment and sexual violence complaints;
- protect the rights and confidentiality of all parties to complaints to the extent possible; and
- prevent retaliation against persons making complaints under this policy.
II. Prohibited Conduct Defined

A. Discrimination

Discrimination is any disparate or unequal treatment. In the case of an employee it relates to an employee’s terms, privileges and conditions of employment. In the case of a student it relates to the student’s enrollment, attendance or academic progress. In the case of a third party it relates to the third party’s relationship with the College. In all cases it also relates to the person’s participation in all aspects of the College community.

B. Harassment

Harassment is any conduct that creates an intimidating, demeaning, offensive or abusive environment that unreasonably interferes with a person’s work or academic performance or participation in the College community.

Examples of impermissible harassment, including racial harassment, include the following:

- The use of physical force or violence to restrict the freedom or movement of another person or to endanger the health and safety of another person based on that person’s race, ethnicity, gender, sexual orientation, disability, etc.

- Physical or verbal behavior that involves an express or implied threat to interfere with or has as its purpose the reasonably foreseeable effect of interfering with an individual’s personal safety, academic efforts, employment, or participation in college-sponsored activities because of that individual’s race, ethnicity, gender, sexual orientation, disability, etc. and which causes that individual to have a reasonable apprehension that harm is about to occur;

- Any type of conduct that has the effect of unreasonable interfering with an individual’s work or academic performance or creates an intimidating, hostile or offensive working or learning environment, including electronic bullying, epithets, slurs or derogatory comments based on a person’s race, ethnicity, gender, sexual orientation, disability, etc. It should be emphasized, however, that isolated instances (e.g. a single comment or joke) ordinarily will not constitute harassment unless it is repeated or egregious. Harassment may not be present if the conduct is welcomed and encouraged.

The foregoing must be interpreted in light of one of the fundamental purposes of a Canisius College education which is to teach students to think, write and express themselves critically. This is a demanding skill and students must confront in stark and sometimes painful ways the comfortable assumptions that they bring to the college experience. Instruction in critical thinking very well may involve saying or presenting materials that are felt by individuals to be offensive or embarrassing. In such cases, students should communicate directly with the faculty member involved, the department
chair or the associate dean of the applicable school. See Section IV below regarding Academic Freedom. Nor is this policy intended to address normal differences of opinion that arise but are not based on a person’s protected status. In the case of students, those matters can be addressed through the procedures set forth in the Community Standards. In the case of employees, those matters can be addressed through procedures set forth in the Faculty Handbook, the Administrator’s Handbook, the Librarian’s Handbook or through the Personnel Office.

C. Sexual Harassment

For the same reasons listed above, it is the policy of Canisius College that all faculty, staff, students and visitors work, learn and participate in an environment free from sexual harassment. Sexual harassment is also a violation of both federal and state law.

1. Definition

The equal Employment Opportunity Commission defines sexual harassment in an employment situation as follows:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive environment.

This definition for the employment context may be extrapolated to apply as well to non-employment situations, such as relationships between faculty and students, academic decisions regarding students, and the environment in which students function. This is explained more fully below.

2. Examples of Sexual Harassment

Sexual harassment can take many different forms. The determination of what constitutes sexual harassment will vary according to the particular circumstances.

Examples of sexual harassment include but are not limited to the following situations, whether or not there is the presence of a relationship that puts one person in a position of authority:
• unwelcome sexual propositions, invitations, solicitations, and flirtations; leering;

• unwelcome and inappropriate touching, patting, fondling, pinching, or obscene gestures;

• seeking sexual favors or relationships in return for the promise of a favorable grade or other academic or employment benefit or opportunity;

• conditioning an employment-related action (such as hiring, promotion, salary increase, performance appraisal, or refraining from discipline or termination) on a sexual favor or relationship;

• conditioning an academic-related action (such as a grade, assignment, or refraining from discipline) on a sexual favor or relationship;

• unwelcome communications of a sexual nature, including graphic sexual commentaries about a person’s body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendos; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls, text messages or social media postings;

• sexually suggestive objects, pictures, videotapes, audio recordings or literature, or electronic transmissions placed in the work or study area, that may embarrass or offend individuals, subject to general principles of academic freedom discussed in Section III below; or

• in the case of co-workers or individuals in positions of authority, conduct of the nature set forth above when the effect is to unreasonably interfere with the ability of a person to perform his or her employment or academic responsibilities, or when the effect is to create an offensive, intimidating and/or hostile working or learning environment for that person.

Unwelcome sexual behavior toward another employee or student, which is sufficiently severe or pervasive to alter the conditions of the victim’s employment or academic surroundings and results in a work or educational environment that a reasonable person would find abusive or offensive creates a “hostile environment.”

Isolated instances (e.g., a single sexual overture, comment, invitation or joke) ordinarily will not constitute sexual harassment unless there is repetition or the circumstances are egregious. In this regard, occasional compliments also do not
constitute sexual harassment. Sexual behavior that is welcomed and consensual may not constitute sexual harassment.

D. Sexual Violence

Sexual violence refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol or other incapacity, such as being a minor or having an intellectual or other disability. Examples of sexual violence include, but are not limited to:

- rape
- sexual assault
- sexual battery;
- sexual coercion;
- sodomy; and
- fondling.

E. Retaliation

Retaliation means any action taken against a person who has filed a complaint under this policy in reprisal for having done so that might dissuade a reasonable person from making or supporting a complaint under this policy.

III. Reporting Procedures

Complaints of violations of this policy, including complaints of retaliation, should be made to the College’s Title IX Coordinator (“Coordinator”) who is responsible for implementing this policy and the College’s efforts to comply with its Title IX responsibilities. The Title IX Coordinator is:

Terri L. Mangione, Ph.D.

Vice President for Student Affairs/Dean of Students

Old Main 102

mangiont@canisius.edu
In the event that the coordinator is the subject of a complaint, the Vice President for Academic Affairs will assume the coordinator role. If the President is the subject of a complaint, the Chair of the Board of Trustees will assume the President’s role in the process.

Inquiries concerning application of Title IX may also be made to the United Stated Department of Justice’s Office for Civil Rights. Persons filing a complaint also have the right to file a criminal complaint with local law enforcement agencies in appropriate cases.

A student who perceives himself/herself to be the victim of discrimination, harassment or retaliation by another student may also report the incident to the Dean of Students or designee instead of the coordinator.

IV. Academic Freedom

The Board of Trustees of Canisius College has accepted and endorsed as its own a definition of academic freedom published by the AAUP and AAC as set forth in Chapter V of the Faculty Handbook although in taking this action the Board reserved to itself the interpretation and application of that published document. That definition of academic freedom is incorporated herein by reference. Conduct claimed to constitute harassment and sexual harassment must be interpreted in light of the principle of academic freedom so as to protect a faulty member’s right to teach, research and publish freely. The college does not intend that this Policy will be used to address the normal differences of opinion that may arise in the academic setting and are part of the normal process of teaching and learning.

V. Consensual Relationships

Because of the imbalance of power between faculty/staff members and undergraduate students, real or perceived, and the special risks and issues that can arise as a result, the College prohibits romantic and/or sexual relationships between faculty/staff members and undergraduate students regardless of whether the relationship is consensual. The College also prohibits romantic and/or sexual relationships between faculty/staff members and those graduate students over whom the faculty/staff member has direct academic/administrative responsibility or is likely to have academic/administrative responsibility for in the future (for example, because the student is in the faculty member’s department), regardless of whether the relationship would be consensual. Nor may a faculty member exercise academic responsibility over an undergraduate or a graduate student with whom the faculty member has or had a romantic and/or sexual relationship, regardless of whether the relationship was consensual. For purposes of this policy, “faculty member” includes any graduate student teaching assistants with respect to students whom they teach, supervise or evaluate.

The College also actively discourages consensual relationships of an intimate or sexual nature between supervisory personnel and those staff who report to them. The College discourages such relationships because, among other reasons, there is an implicit imbalance of power in them. The College expects its supervisors and administrators to act in a fair, impartial manner when making administrative decisions, avoiding every appearance of impropriety or favoritism that might arise from consensual relationships.
VI. Duties of Members of Canisius College Community

A. All Associated with Canisius College

All members of the College community should assume the responsibility to see that the College is free from all forms of discrimination and harassment and that any discrimination and harassment is properly reported. Obviously, the College cannot take action to punish and deter discrimination and harassment if it is not aware that has occurred.

B. Supervisors

It is the responsibility of supervisors, deans, department chairs, program directors and other managers to:

- inform employees and students under their direction or supervision of this policy;
- inform visitors, independent contractors, vendors and their representatives and others transacting business with the college of this policy;
- notify the Coordinator for the Implementation of the Harassment Policy when they receive reports of complaints of discrimination and harassment;
- notify the Coordinator when they observe or otherwise become aware of incidents of discrimination and harassment; and
- implement any corrective actions imposed as a result of findings of discrimination and harassment.

Any employee or student in a supervisory or managerial capacity who has knowledge of incidents of discrimination or harassment, including sexual harassment or sexual violence, who does not report the matter can be subject to disciplinary action up to and including dismissal or expulsion.

C. Faculty, Staff and Students

It is the responsibility of the faculty, staff, and students to discourage discrimination and harassment and to report incidents of discrimination and harassment, including sexual harassment and sexual violence. This is regardless of whether they are the person or persons subject to the conduct prohibited by this policy. Any faculty member, staff member, or student who believes he/she has been victimized by discrimination or harassment is encouraged to promptly report the incident to and confer with the Coordinator or with one of the designated College Counselors for Issues of Discrimination and Harassment (“Counselors”).
VII. Procedures for Dealing with Discrimination; Harassment; Sexual Violence or Retaliation

Any person who perceives himself or herself to be the victim of discrimination, harassment, sexual violence or retaliation in violation of this policy should promptly take one or more of the procedural steps described below, as applicable. It is not necessary that they all be taken or that they be taken in order. The College encourages, but does not require, that prior to invoking the Formal Complaint Procedure an individual utilize the Informal Complaint Procedure. If the Informal Complaint Procedure is utilized it may be ended and the process may be moved to the Formal Complaint Procedure at anytime. The Informal Complaint Procedure will not be used for complaints involving sexual violence.

A. Self-Help

An initial course of action for any faculty, staff, or student who feels that he/she has been discriminated or retaliated against or harassed may be for that person to emphatically tell or otherwise inform the person that the conduct is unwelcome, offensive, violates this policy, and must stop. This may solve the problem, and, if it does, further proceedings will usually not be necessary. It is not required that self-help be used before utilizing any of the other procedural steps.

B. Counseling

An individual who perceives himself/herself as victim of discrimination, harassment or retaliation may also contact one of the designated Counselors for advice and counsel. This should be done promptly. The Counselor initially will:

1. Help the person determine if the perception of discrimination, harassment or retaliation is valid;

2. Discuss the rights of the person under this policy;

3. Discuss possible methods the person could take to eliminate the unwanted conduct, whether or not it is discrimination, harassment or retaliation;

4. Counsel the person. If the Counselor believes that an issue of discrimination, harassment or retaliation is not present, the Counselor will advise the person of this. If the Counselor believes such an issue is or may be present, the Counselor will help the person determine the proper steps to take, including any further steps under this policy, to eliminate the improper conduct and prevent similar incidents in the future.

5. Keep all information confidential to the greatest extent possible. The Counselor must, however, notify the Coordinator of the incident so that the Coordinator can decide whether to pursue an independent investigation of the incident.
6. Decide whether the matter should be documented. If the matter is documented, the file will be sent to the Coordinator to be maintained for at least six (6) years.

C. Informal Complaint Procedure

If the person who believes that he/she has been the victim of discrimination, harassment or retaliation decides that he/she wishes to file a complaint, and that the matter should be pursued with the alleged offender, the person must notify a Counselor and give that Counselor written permission (e-mail from College e-mail address is acceptable) to initiate the informal complaint procedure. The person who believes that he/she has been the victim of discrimination, harassment or retaliation will be identified as the “complainant” and the alleged offender will be identified as the “respondent”. The Counselor shall notify the Coordinator who shall appoint an Investigator from the pool of Counselors (which may include the Coordinator) to:

1. Apprise the respondent of the charge.

2. Elicit from the respondent an explanation of what occurred from his/her perspective.

3. Gather any other information or conduct any investigation or other interviews the Investigator believes necessary.

4. Attempt in a non-legalistic, non-threatening manner to facilitate a solution acceptable to both the complainant and the respondent.

5. Act as a mediator if this appears to be advisable, including, if deemed appropriate by the Investigator and Coordinator, conducting a meeting between the complainant, the respondent, and the Investigator, if the complainant agrees.

6. Keep the Coordinator apprised of the status of the complaint and, when appropriate, secure advice from the Coordinator regarding the handling of the complaint.

7. Take such other steps deem appropriate by the Investigator and/or the Coordinator.

During this informal complaint procedure, it shall be the responsibility of the Counselor to the complainant to:

- If deemed appropriate by the Counselor, assist the complainant with the development of a written communication to the alleged offender outlining the perceived improper behavior and asserting that the complainant would like the behavior to stop.
Assist the complainant in preparation for any facilitated meetings with the respondent.

Outline to the complainant the options available under this policy. Including the formal procedure described below.

If, after conferring with both the complainant and the respondent, the Investigator believes that an issue of discrimination harassment or retaliation is or may be present which cannot be successfully mediated, and provided the complainant agrees, the case will proceed to the Formal Complaint Procedure phase. If the Investigator believes that such an issue is or may be present and the complainant does not agree to proceed with these remedies, the Investigator shall refer the matter to the Coordinator who shall decide whether to proceed in accordance with Section VII of this policy. If the Investigator believes mediation (e.g. informal dispute resolution managed by the Investigator in consultation with the Coordinator) is an option, the Investigator will attempt mediation, forwarding the case to the Formal Complaint Procedure phase only if, in the judgment of the Investigator, mediation has not been successful, and provided the complainant also agrees to the Formal Complaint Procedure. (A respondent does not have the option to move a charge to the Formal Complaint Procedure phase.) If the Investigator believes an issue of discrimination, harassment or retaliation is not present, or that mediation or other steps taken have successfully resolved the problem, the Investigator will advise the complainant of this, and no further proceedings will result; however, this determination will be made only after the Investigator’s consultation with the Coordinator and with the approval of the Coordinator. In the case of a disagreement between the Coordinator and the Investigator, the Coordinator’s decision shall control.

A written summary of the investigation and of the actions taken under this informal complaint procedure will be prepared by the Investigator and, together with any other documentation, will be maintained in a file in the office of the Coordinator for at least six (6) years.

D. Formal Hearing Committee Pool

A pool of Canisius College personnel to serve as members of formal hearing committees (“Pool”) will be established as follows:

1. The pool will consist of four (4) representatives, two (2) of whom shall be females and (2) of whom shall be males, from each of the following constituencies:
   a. Faculty – members selected with input from the Faculty Senate
   b. Administration – selected by the President
   c. Students – members chosen by U.S.A.
d. Administrative Associate/technical – selected by the Director of Human Resources

e. Maintenance/Housekeeping – selected by the Director of Human Resources in consultation with the Director of Facilities

f. Public Safety – selected by the Dean of Students in consultation with the Director of Public Safety

g. “Counselors” as defined in this policy may not be members of the Formal Hearing Committee Pool.

2. The President may consider the appointment of additional members to ensure that the Pool has sufficient diversity to represent the college community generally.

3. The term of service in the Pool (except students) will be for (3) years with the possibility of re-appointment. The term for students will be one year with the possibility of re-appointment.

4. Members of the Pool may be augmented in the event more than one formal hearing is being or is to be conducted or at the discretion of the President.

E. Formal Complaint Procedure

1. A written complaint will be given to the President within a reasonable time, not to exceed sixty (60) working days, excluding summer months, from completion of the informal complaint procedure or in the case of sexual violence at the time the complaint is filed. The complaint will be prepared by the complainant with the assistance of the Counselor who assisted the complainant during the informal complaint procedure. A copy of the complaint shall be delivered to the respondent at the time that it is delivered to the President.

2. Within ten (10) working days after receipt of the written complaint, the President will appoint a chair of the hearing committee from the Pool. There will be five (5) persons on the hearing committee, including the chair.

3. The remaining four (4) members of the hearing committee will be selected from the Pool by the complainant and the respondent within ten (10) working days after appointment of the chair, with two (2) members to be designated by the complainant and two (2) members to be designated by the respondent.

4. Within twenty (20) working days of finalizing the hearing committee, the chair will call (an) organizational meeting(s) of the committee, at which the committee will review the specific procedures for the conduct of the hearing set forth in Appendix A. The complainant and respondent will be apprised of the procedures by the chair of the committee. The committee will also set a meeting time for a formal hearing.
The chair will endeavor to schedule the hearing no later than twenty (20) working days after the organizational meeting(s), but in no event later than forty (40) working days after the organizational meeting(s).

5. Prior to the hearing date, the chair of the committee will also contact the Coordinator to determine if either the complainant or the respondent have previously made or been the subject of a discrimination, harassment or retaliation complaint. Such evidence will be admissible at the hearing if it is deemed relevant to the present complaint by the chair of the committee. If such evidence is admitted, the chair of the committee will notify the affected party at least 2 days prior to the hearing date. The affected party shall have the opportunity to comment or present evidence with regard to those prior complaints.

6. At the formal hearing, the hearing committee will observe the guidelines outlined in Appendix A. Within five (5) working days of the end of the hearing either party may submit a written statement to the chair. A copy of that statement must be given to the other party. Rebuttal may be allowed at the sole discretion of the chair in consultation with the committee.

7. Within ten (10) working days after the submission of written statements, including any rebuttal statements, the committee will meet and render a written recommendation to the President that will contain detailed findings of fact with respect to the incident and how those facts do or do not constitute discrimination, harassment or retaliation within the meaning of this policy. Copies of the recommendation will be sent to both parties.

8. Parties who are members of the faculty may request review of the committee’s recommendation by the Committee on Faculty Status in accordance with that Faculty Handbook. This request must be made in writing within ten (10) working days after receipt by that party of the hearing Committee’s recommendation. The Committee on Faculty Status shall submit a recommendation to the President, consistent with the scope of the Committee’s charge within thirty (30) working days of a request for review.

9. After receiving the recommendation from the hearing committee, and in the case of faculty, after also receiving the advice of the Committee on Faculty Status in the event a faculty member requests review by that body, the President will render a decision in writing setting forth the reasons for the action taken. The decision will be rendered within ten (10) working days and communicated to both parties, the chair of the hearing committee, and, if appropriate, to the chair of the committee on faculty Status.

10. The President is not bound by the recommendation of the hearing committee or, where applicable, the advice of the Committee on Faculty Status. The President’s decision is in the President’s own judgment and discretion and is final.
11. All records concerning the Formal Complaint Procedure process shall be forwarded to the Office of the President together with the recommendation of the hearing committee. After decision by the President, the entire file shall be forwarded to the Coordinator where it will be maintained for a period of at least six (6) years.

12. Any determination as to whether discrimination, harassment or retaliation has occurred shall be based on a preponderance of the evidence standard.

F. Discrimination, Harassment and Retaliation Involving Only Students

Every effort has been made to make this policy and the procedures set forth herein consistent with the Community Standards Policy for students. Normally, a complaint by a student of discrimination, harassment or retaliation by another student made to the Coordinator will be referred to the Dean of Students or designee and will be handled in accordance with the Community Standards Policy if it proceeds past the Informal Complaint Procedure.

G. College Investigations

There are times when an individual who perceives himself/herself to be the victim of discrimination, harassment, sexual violence or retaliation in violation of this policy will be reluctant to pursue the remedies provided in this section. Similarly, the College may become aware of an alleged incident of discrimination, harassment, sexual violence or retaliation even though the alleged victim has not reported it. Such incidents pose legal risks for the College as an institution and, therefore, the College retains the right to conduct its own investigations into such incidents and take appropriate measures even in the case of an alleged victim who is unwilling to report or pursue the matter.

H. Disciplinary Sanctions

Disciplinary actions for employees for discriminatory, harassing, or retaliative behavior as determined following an informal or formal hearing may include one or more of the following:

- work restrictions
- requirement to attend training or other education
- requirement to obtain counseling
- salary reduction or limitation
- an oral warning
- a written reprimand
- suspension
- dismissal
- expulsion

I. Malicious, False Accusations
If a claim of discrimination, harassment or retaliation (whether made through the Informal or Formal Complaint Procedure) is determined by the Coordinator (in the case of the Informal Complaint Procedure) or the hearing committee (in the case of the Formal Complaint Procedure) to be both false and brought with malicious intent, the matter will be sent to the President by the Coordinator with a report and a written recommendation. The complainant may be subject to the disciplinary sanctions set forth in Section H. The determination of whether a complaint is both false and brought with malicious intent shall be determined under a substantial evidence standard, which is higher than a preponderance of the evidence, and shall consider the matter from the perspective of both an objective reasonable person and the subjective view of the person making the complaint.

J. Notification of Findings

All parties to a complaint will be notified of the outcome of the college’s processing of the complaint. Typically, such notification will only be whether or not discrimination, harassment or retaliation was found to have occurred. In certain situation, the complainant may also be informed of the discipline imposed on the respondent where the discipline directly relates to the complainant.

VIII. Documentation

Documentation can be informal handwritten notes taken by the Coordinator or a Counselor while speaking with an individual; it can be documentary or testimonial evidence submitted during an investigation or a hearing; it can be a written recounting of a process or its results; or it can be an explanation prepared for the record or for the President as to why an Investigator or a hearing committee took a particular step or reached a particular decision with regard to a discrimination, harassment, or retaliation complaint. Documentation can be in any form; it is what is created in order to better explain in the future what went on or occurred in the past.

Except for the counseling stage, any resolutions under this policy must be documented, even if there is no corrective action taken beyond informal mediation by an Investigator.

The amount of documentation which is reasonable and prudent with regard to any of the processes outlined in this policy is left to the judgment of the Coordinator and the Coordinator shall from time to time prescribe forms or required documents for the process established by this Policy.

All documentation required to be maintained by the Coordinator shall be available only to the Coordinator or any other person conducting an investigation under Section VII of this policy (except as may be required for a formal hearing as provided in Section VII.E.6), the College’s legal counsel and the President.

IX. Confidentiality
It is to be expected that, at all stages of any proceedings under this policy, confidentiality will be maintained to the greatest extent possible. It is believed that, as a general rule, this is the best course to be followed by all involved and the best situation for a collegial community such as Canisius College.

Consistent with their obligations, the Coordinator, Counselors, Investigators, members of any hearing committees, members of the President’s staff, and staff members necessarily involved such as College human resources personnel, are expected to maintain the highest standards of confidentiality. Communication by these persons with others with regard to harassment, discrimination, or retaliation complaints can be only on a required “need to know” basis. (However, claims of confidentiality about a discrimination, harassment, or retaliation matter cannot be asserted when the person requesting information has the requisite “need to know.”)

Others necessarily involved such as the complainant, the respondent, witnesses, etc., should be encouraged by Counselors and/or the hearing committee to keep confidential to the greatest extent possible matters about which they or others provide testimony or information. However, it must be recognized by those involved in procedures under this policy that, with regard to such individuals, other than by attempting persuasion, the College has no means by which to ensure strict confidentiality.

X. Duties of the Coordinator

The Coordinator for the Implementation of the Discrimination and Harassment Policy shall:

A. Publicize this policy on a periodic basis;

B. Conduct any training considered advisable with regard to this policy or issues under this policy;

C. Act on complaints directed to the Coordinator or which otherwise come to the Coordinator’s attention;

D. With the approval of the President, appoint College Counselors for Issues of Discrimination and Harassment in sufficient numbers to implement this policy;

E. Coordinate a regular review of, and update as necessary, the formal hearing committee pool.

F. Assign Counselors to assist persons who perceive themselves victims of harassment; discrimination or retaliation and monitor the handling of the matters by the Counselors;

G. Act as an advisor to the Counselors;

H. Implement any corrective actions to be taken under this policy;
I. Act as an advisor to the President with regard to this policy and perform such other duties as may be assigned by the President in connection therewith;

J. Act as an advisor to the College community with regard to issues of discrimination, harassment and retaliation; and

K. Maintain the records required to be kept under this policy.

XI. Religious Freedom

Nothing in this policy shall or is intended to restrict the ability of the College to exercise its religious freedom under federal or state law.
APPENDIX A: HEARING PROCEDURES

1. Pre-Hearing Procedures

Once the President has appointed a Chair for the hearing committee, the chair will contact both the complainant and respondent to schedule a pre-hearing meeting. The complainant and respondent shall have separate pre-hearing meetings with the chair to discuss the following: the hearing process, the complainant’s/respondent’s responsibilities while preparing for the hearing, and the available services. At the pre-hearing meeting:

a. The complainant/respondent shall be informed that an advisor/counselor may be obtained to provide assistance while preparing for the hearing and to be present at the hearing.

b. The role of the advisor/counselor shall be explained.

c. The complainant/respondent shall be informed that if he or she chooses to have an advisor/counselor during the hearing process, the name of that person shall be presented to the chair as soon as possible, and not less than two business days prior to the scheduled hearing.

d. The permitted types of witnesses and information shall be explained.

e. The complainant/respondent shall be informed that if he or she chooses to present witnesses and/or written statements, the names of all witnesses and/or copies of the statements shall be presented to the chair not more than two business days after the pre-hearing meeting.

f. The complainant/respondent shall be informed of the opportunity to present a statement about the incident in question at the hearing.

g. The process of the hearing shall be explained.

h. The complainant/respondent shall be informed of the availability of the chair to answer any procedural questions pertaining to the hearing. The complainant/respondent shall be responsible for securing an advisor and determining and contacting appropriate witnesses prior to submitting their names to the chair.

2. Advisors

The complainant and respondent may be advised/counseled by any member of the Canisius community. Advisors/counselors may be present during the hearing; however, advisors/counselors shall not address the hearing committee or question witnesses.

3. Hearing Committee Preparation

The hearing committee shall receive all written materials prior to the scheduled hearing. The hearing committee shall meet before the scheduled hearing in order to review the complaint and prepare for the process of the hearing.
4. Hearing

a. Attendance

The hearing shall be private and closed and shall be attended only by members of the hearing committee, the complainant, the respondent, their advisors/counselors, and their witnesses. In hearings involving more than one respondent, the chair, in his or her discretion may permit the hearings concerning each respondent to be conducted either separately or jointly. The hearing committee may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, respondent and/or other witness during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other means, where and as determined by the sole judgment of the chair.

b. Record of the Hearing

A single verbatim recording of the hearing shall be made by the chair. Deliberations shall not be recorded. No other recording shall be made. This record shall be confidential and shall be the property of the College. All records concerning the Formal Complaint Procedure process shall be forwarded to the Office of the President together with the recommendation of the hearing committee. After the decision by the President, the entire file shall be forwarded to the Coordinator where it will be maintained for a period of at least six (6) years. The recording shall be available to the complainant and respondent for use only during an appeal and only in the office of the chair.

c. Role of the Hearing Committee Chair

The chairperson of the hearing committee shall preside over the hearing and shall be responsible for governing the hearing procedure. All procedural questions shall be subject to the final direction and discretion of the chair. The chair of the hearing committee shall introduce members of the hearing panel and ask all hearing participants to identify themselves. All statements and questioning shall be at the direction and discretion of the chair. The chair may limit or exclude the statements or questioning of any hearing participant to the extent that such statements or questioning is repetitive of matters previously presented or is not relevant to the incident in question. The chair may recess the hearing at any time.

5. Hearing Procedures

a. The chair shall make opening remarks.

b. The complainant shall have the opportunity to present a statement about the incident in question. The respondent shall then have the opportunity to present a statement about the incident in question.
c. After the statements by the complainant and the respondent, members of the hearing panel shall have the opportunity to question both the complainant and the respondent.

d. The complainant shall be offered the opportunity to present pertinent records, exhibits and written statements (including impact statements) relevant evidence and witnesses, one at a time, in accordance with the explanation provided during the pre-hearing meeting. Members of the hearing committee shall have the opportunity to question at the conclusion of each witness’ statements. The complainant and respondent shall have the opportunity to question at the conclusion of each witness’ statements. The chair shall permit witnesses to be present in the hearing room only during their statements and subsequent questions, if appropriate.

e. The respondent shall be offered the opportunity to present, one at a time, pertinent records, exhibits and written statements (including impact statements) in accordance with the explanation provided during the pre-hearing meeting. Members of the hearing committee shall have the opportunity to question witnesses at the conclusion of each witness’ statements. The complainant and respondent shall have the opportunity to question witnesses at the conclusion of each witness’ statements.

f. Members of the hearing committee shall have the opportunity to ask final questions. The complainant and the respondent shall be asked if they have any other statements they wish to present.

g. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in these proceedings.