



		Policy Section:	Institutional Support
Policy Number:	5501-01	Policy Title:	Non-Discrimination and Equal Opportunity Policy
Original Effective Date:	1999	Department:	Human Resources
Date Last Revised:	7/1/2022		

Policy Statement:

Cairn University is a private faith based institution of higher education committed to maintaining a positive and constructive work environment free from unlawful discrimination for students, staff and faculty as stated in Title IX of the Education Amendments of 1972 and in Title VII of the Civil rights Act of 1964 as amended. The University will not tolerate any form of harassment or discriminatory practice. Discriminatory harassment is not only a violation of Cairn University policy, but is a violation of state and federal laws. The University will also not tolerate retaliation against any party who has complained of discrimination or harassment, or who has provided information or testimony in connection with such a complaint.

Definitions:

Discrimination: Any distinction, preference, advantage for or detriment to an individual compared to others that is based upon an individual’s sex, race, color, age, national or ethnic origin, or disability that is so severe, persistent, or objectionably offensive that it unreasonably interferes with or limits a student’s ability to participate in or benefit from the university’s educational program or activities, or an employee’s ability to benefit from a safe and non-discriminatory workplace.

Discriminatory Harassment: Detrimental action based on an individual’s sex, race, color, age, national or ethnic origin, or disability, that is so severe, persistent, or objectionably offensive that it unreasonably interferes with or limits an individual’s ability to participate in or benefit from the university’s employment and/or educational program or activities.

Discriminatory harassment includes verbal or physical conduct designed to belittle, threaten, intimidate, or coerce an individual. These actions prevent students from participating in, or benefitting from, the university’s educational program or activities and interfere with (or prevent, or hinder) employees’ ability to do their jobs. Harassment can include but is not limited to actions such as:

- Hostile, threatening or intimidating actions or gestures
- Physical interference with normal work or movement
- Slurs
- Taunting
- Verbal Abuse
- Hazing
- Cyber bullying
- Degrading comments or jokes
- Display of derogatory objects, cartoons, postings, drawings, or pictures in print or electronic form.

- Creating a hostile environment that prevents participation in various programs, activities and work at the University.

Sexual Harassment: Any unwelcome, sexually based verbal or physical conduct that is sufficiently severe, persistent or objectionably offensive that it has the effect of unreasonably interfering with, limiting or denying a student the ability to participate in or benefit from the university's educational programs, or an employee from the ability to perform his or her job in a safe environment. The unwelcome behavior may be based on threats or promises from someone in a position of power or authority, the creation of a hostile environment, or retaliation.

Under Title IX, Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

- A university employee conditioning educational benefits on participation by a student in unwelcome sexual conduct. (Quid Pro Quo); or
- Unwelcome conduct that a reasonable person would determine is so severe, pervasive and objectionably offensive that it effectively denies a person equal access to the school's educational program or activity; or
- Sexual assault (as defined by the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

Examples include but are not limited to:

- An attempt to coerce an unwilling person into a sexual relationship
- Repeatedly subjecting a person to unwanted sexual attention
- Verbal comments such as sexual comments, advances, propositions, or making or using derogatory comments, epithets, slurs or jokes
- Sexually suggestive or offensive joking, flirting, or comments
- Unwelcome and intentional touching
- Sexually oriented verbal abuse
- Sexually oriented comments about an individual's body
- Displaying objects or pictures that are sexual in nature
- Sending sexually explicit or offensive text messages (sexting) or other communications
- Posting revealing and/or inappropriate pictures of a sexual nature with or without a person's consent.
- Punishing or threatening to punish a refusal to comply to sexual advances
- Making the submission to sexual advances a condition of educational or employment benefits
- Sexual or gender-based violence
- Stalking
- Gender-based bullying
- Physical conduct such as touching, assaulting, impeding, or blocking movements

For additional information, refer to the corresponding policy on Sexual Misconduct (5501-02)

Retaliatory Harassment: Intentional action taken by an accused, allied or independent third party that harms an individual as reprisal for filing or participating in a harassment/civil rights grievance.

Complaining Party: An individual who makes a statement or claim about another person's actions and is seeking for the action to stop and the incident(s) to be investigated. Often (or sometimes) also seen as the victim.

Responding Party: The individual who has been named or alleged to be involved in the incident, which a complaining party has reported. Sometimes seen as the person who has been accused.

Targets of Harassment

Discriminatory and sexual harassment can take place in many forms and be targeted in numerous directions within an institution. This could include:

- Discriminatory or sexual harassment of an employee by another employee
- Discriminatory or sexual harassment of a student by another student
- Discriminatory or sexual harassment of a student by an employee
- Discriminatory or sexual harassment of an employee by a student
- Discrimination or sexual harassment of a student or employee by a vendor, independent contractor, visitor, alumnus, board member or other member of the University community.

All members of Cairn University are urged to be guarded and sensitive in all types of personal and professional relationships. A particular interaction must be severe, persistent, or objectionably offensive to both a reasonable party and to the victim to be defined as harassment. However, any action that is detrimental to the educational and programmatic experience of the student, or to the conditions of employment or deemed as inappropriate personal attention may be considered threatening.

Complaints Concerning Discrimination and/or Harassment

The University does not permit discrimination or harassment in our programs, activities or workplace. Members of the Cairn community who believe they have been subjected to any form of discrimination or harassment in violation of this policy should follow the procedures outlined below to report these concerns. The process involves an immediate preliminary intake investigation to determine if there is reasonable and sufficient evidence to believe the non-discrimination and non-harassment policy has been violated. If reasonable and sufficient evidence exists, the university initiates a prompt, thorough and impartial formal investigation. Cairn utilizes a single investigative model with defined procedural steps as stated in the Title IX Sexual Misconduct Policy. (5501-02) This one investigative model is utilized for allegations of discrimination, harassment and sexually based discrimination and harassment. Each type of investigation is designed to provide fair process and reliable determination about whether the policy has been violated. In the event that the University determines that the policy has been violated, the University implements a prompt and effective remedy designed to end the discrimination, prevent its reoccurrence, and address its effects.

Employees who wish to report a concern or complaint related to discrimination or harassment by another employee or a non-student member of the University community may do so by reporting the concern to the Vice President of Human Resources:

Mary Boyer
Vice President of Human Resources & Equal Employment Opportunity Manager
200 Manor Avenue Langhorne, PA 19047-2990
Manor Hall (MH229)
215-702-4541
mboyer@cairn.edu

Students who wish to report a concern or complaint related to discrimination or harassment by any member of the Cairn community may do so by reporting the concern to the University Title IX Coordinator:

Scott Cawood
Senior Vice President of Student Affairs and Administration
200 Manor Avenue Langhorne, PA 19047-2990
Smith Admin Building (AD212)
215-702-4216
scawood@cairn.edu

Individuals with complaints of discrimination who do not find satisfaction with the university process also have the right to file a formal complaint with the United States Department of Education:

Office for Civil Rights (OCR)
400 Maryland Avenue, SW
Washington DC 20201-1100
Customer Service Hotline #: (800)-421-3481
Fax: (202)-453-6012
TDD# (877)-521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Informal Dispute Resolution through Mediation

Once an initial intake is complete and before pursuing the formal complaint process, every reasonable effort can be made to constructively mediate issues between students and with faculty, staff, supervisors, administrators, or other members of the Cairn community. Whenever possible, safe and reasonable, the problem or complaint can be discussed in an informal dispute resolution process with the consent of both parties. This is never attempted when the complaint involves allegations of assault or a quid pro quo scenario between employee and student.

Cairn University does not require an employee who is the complaining party to contact the individual against whom a complaint is made or that person's supervisor if doing so is impractical, or if the complaining party believes that the conduct cannot be addressed through informal means. If a satisfactory resolution is not reached in mediation with the individual, the complaining party should contact the direct supervisor to attempt to reach resolution. If none of these is successful or if it is impractical or not safe to work out a resolution informally, the formal complaint process will be initiated. If the complaint is employment-related and does not involve a student, a supervisor who has come to know about a complaint must assist the complaining party in achieving a resolution, even if such a resolution is pursued through informal means.

Steps in the Complaint Process

Notice of a complaint can be made in person or in writing to the Vice President of Human Resources if the allegation involves an employee and to the Title IX coordinator if the incident involves a student. When submitted in writing, an initial conversation is scheduled with the complaining party to talk through the details of the complaint.

- Documentation at this stage shall provide:
 - Names, dates and times

- Specific details of alleged harassment
- Witnesses
- Any supporting evidence
- Record of any attempted reconciliation through informal dispute resolution process

Upon receipt of a complaint, the Title IX Coordinator or Deputy Title IX Coordinator (Vice President of Human Resources) commences a preliminary intake investigation.

- The Coordinator begins promptly by looking for any supportive measures or remedial steps that need to be taken to alleviate further contact or complaint.
- Once immediate supportive measures are explored, the Title IX investigator begins to interview the complainant and the respondent, and identify breach of any policies.
- If evidence exists that the complaint is founded, the investigator also clarifies whether any local, state or federal laws have been broken which need to be reported.
- If it is determined, that no policy has been broken and/or that the incident was not severe, persistent or objectionably offensive, then the investigator informs the corresponding administrator who concludes the matter with the complainant explaining the findings and the internal remedies.
- When a preliminary investigation determines that there is reasonable and sufficient evidence to pursue action, the individuals are informed and a charge is made.
- If the incident is perceived to be a Title IX violation, it is referred to a Title IX investigator for a prompt and thorough investigation.

Formal Judicial Investigations

Cairn University has trained investigators who use a systematic format of investigation including those involving Title IX complaints. When a case is referred to an investigator, that person commences an investigative plan. This plan includes:

- Development of a witness list
- Development of an evidence list
- Intended timeframe for the investigation
- Order of contact for interviews
- Additional investigators needed

Once the investigation begins:

- It commences promptly without being rushed.
- Statements by those interviewed are orally presented and written in note form by the investigator.
- Upon completion of all related interviews and collection of evidence, the investigator weighs the evidence to ensure that it is credible and relevant. Evidence that meets the standard is compiled into a list of Directly Related Evidence (DRE). The investigator writes a final report of the investigation.
- In cases of harassment/discrimination, which are not sexual, the Title IX Coordinator makes a finding based on the clear and convincing evidence standard. (Allegations of sexual harassment or assault must go through a hearing panel as stated in Cairn policies 5501-02 Sexual Misconduct and 5401-18 Judicial Conduct Hearing)
- Findings are then presented to the responding party who may accept the totality of the findings, accept only a portion of the findings, reject part of the findings or reject all of the findings. The investigator will also share the findings with the complaining party within the same time.

- When the investigation reveals the responding party is not responsible for alleged violations, the investigation is promptly closed and recorded as such by the Title IX Coordinator in the case file. Title IX and Title VII files are kept in university drives with access limited to the respective Title IX team members.
- Where an investigation reveals the responding party is responsible and the accused accepts the findings that he/she violated university policy: the follow-up with sanctions are administered by the Office of Student Life if a student; the Office of Human Resources if an employee; or the overseeing administrator if another member of the Cairn University community.
- Either party can appeal the outcome if their appeal meets the appeal criteria.

Appeals

In the event either party files an appeal, any sanctions imposed by the University will normally remain in place during the appeal. An appeal must be written and clearly articulate the reason for need of appeal based on the grounds for appeal. Appeals must be made in writing within 72 hours of receiving notification of judgment and sanctions.

Grounds for appeal:

1. A procedural error occurred in the investigation or hearing which significantly influenced the outcome.
2. New evidence has become available which would substantially affect the outcome or the sanction(s).
3. Sanctions are not proportionate to the severity of the findings

The appeals officer will be:

- The Provost is the appeals officer if the person appealing is a student
- The respective overseeing VP is the appeals officer if the person appealing is an employee

The appeals officer determines if the written appeal qualifies for consideration based on the grounds for appeal and then determines the next steps. The appeals officer can meet with the parties involved and make a ruling.

In the event of an appeal, the appeals officer shall put aside personal feelings of judgment that would substitute his/her own result for the case based on disagreement with the findings, acknowledging that appeals are granted only on the basis of error, new evidence or disproportionate sanctions. In addition, the appeals officer shall:

- Inform all parties involved of the status of the appeal and the results of the appeal.
- The appeals office renders a written decision and response within 72 hours of the hearing of the appeal.
- No further appeal can be made. Likewise, the findings of the appeal officer are also considered final and no further appeal can be made.

Communication and Enforcement of Outcomes

Upon completion of any type of informal investigation, formal investigation or appeal, which signals the end of a complaint, Cairn is committed to communicating effectively to the parties involved.

- The original complaining party and respondent will be emailed or personally met with by the Title IX Coordinator or Vice President of Human Resources and told of the final disposition of the complaint.
- In addition, any employee or student supervisor with direct need to know will be informed of the final disposition.
- Cairn will carry out administered sanctions as promptly as possible. Due to the nature of the sanctions, it is possible specific offices would need to be informed of the final disposition of a community member's association with Cairn.
- Cairn will make one final assessment of the duty to warn the community based on the outcome of the complaint.
- Cairn will also examine whether there are any lingering effects of the incident that need to be examined to prevent repeat of a similar type of incident.

When a non-student/non-employee member of the Cairn community subjects a student or an employee to harassment in the course of interacting with the University's locale, events, programs or activities, the University will take appropriate steps to notify such individual of its policies, prevent future occurrences, or prohibit the person from further such interactions as deemed necessary.

Signed: _____
President's Cabinet Member

Date: _____