Appendix 2
Hampden-Sydney College
Harassment and Discrimination Policy
(including Sexual Harassment)

Every College staff member, faculty member, and student has the right to work and study in an environment free from discrimination and harassment and should be treated with dignity and respect. The College prohibits discrimination and harassment against applicants for employment or admission, students, faculty, or staff on the basis of race, religion, national or ethnic origin, age, sex, disability, sexual orientation, status as a veteran or any other classification protected by local, state or federal law, as applicable.

The College’s policy against discrimination and harassment (“Policy”) incorporates protections afforded by Title IX of the Educational Amendments of 1972, which prohibits discrimination in educational programs and activities based on gender. The Policy also incorporates all other local, state, and federal laws, including Title VII of the Civil Rights Act of 1964. Any individual whose conduct violates the Policy will be subject to disciplinary action up to and including termination for the faculty and staff and expulsion for students.

Harassment is the creation of a hostile or intimidating environment, in which verbal or physical conduct, because of its severity and/or persistence, is likely to interfere significantly with an individual’s work or education, or affect adversely an individual’s work or living conditions on campus. Illegal and improper harassment of individuals who are in any of the protected classifications identified above may include, for example:

- Making unwelcome or offensive comments about a person’s clothing, body, or personal life;
- Use of unwelcome or offensive nicknames or terms of endearment;
- Offensive jokes or unwelcome innuendoes;
- Any suggestion that sexual favors, or status as being in any protected classification identified above, would affect one’s job, promotion, performance evaluations, grades, working or educational conditions; or
- Other conduct that creates a work or educational environment that may be considered offensive or hostile, even though some employees or students might not find it objectionable.

Sexual harassment, in particular, may consist of unwelcome advances, requests for sexual favors, or other verbal or physical conduct when one or more of the following occur:

- Submission to or rejection of such conduct is made a term or condition of an individual’s employment or academic success;
- Submission to or rejection of such conduct is used as the basis for employment or academic decisions; or
- Such conduct has the purpose or effect of interfering with an individual’s work or academic performance or creates a hostile, intimidating, or offensive work or educational environment.

The Policy is about human respect, dignity, and compliance with laws pertaining thereto. Nothing herein is intended to inhibit the faculty in its pursuit of free inquiry or the teaching of, or use of material concerning, topics that may be deemed offensive by some, but that have a legitimate academic and intellectual purpose. In some instances creating an uncomfortable environment challenging prejudices and preconceptions, may serve a legitimate educational purpose. Nothing in the Policy is intended to diminish
the College’s commitment to academic freedom or freedom of expression, each of which is essential to the work of an educational institution.

The College has designated the Director of Human Resources as its representative to handle issues arising under the Policy, including Title IX. Individuals who need further information or clarification of the Policy should contact the Director of Human Resources directly. Staff, faculty, students, and others protected hereby who feel they have suffered discrimination or harassment in violation of the Policy should follow the Complaint Resolution Procedure below.

*The Policy also applies to complaints of harassment or discrimination by persons aggrieved by third parties such as contractors or vendors serving the College. The College cannot always control the conduct of third parties, but will attempt to take action to remedy any such situations that may arise.*

Complaint Resolution Procedure (“Procedure”)

*(For ease in identifying individuals, the person making a complaint is referred to as the “Complainant,” and the person about whom the complaint is being made is referred to as the “Respondent.”)*

The College will endeavor to respond to and resolve all complaints quickly and effectively. Individuals in the protected classifications who believe they have been harassed or discriminated against in violation of the Policy are encouraged to take action in any of the ways described in the Procedure.

Although none of the actions listed under the Options for Informal Resolution (below) are required before an individual may file a Formal Complaint, the College favors informal resolution of these claims whenever such resolution can be effected fairly. Except as expressly provided herein, the Procedure is the only grievance procedure available to staff, faculty, students, or other parties for violations of the Policy. No other grievance procedures otherwise available at the College are applicable.

Through the Procedure, the College will take necessary steps to prevent recurrence of any harassment and/or discrimination determined to have occurred, and will take necessary steps to correct the discriminatory effects of the conduct on the Complainant and others, if appropriate. During all stages of the Procedure, every effort will be made to insure fundamental fairness to all parties involved in the complaint process. The College will make good faith efforts to protect the confidentiality of those involved in the Procedure to the extent permitted by law and to the extent that continued protection does not interfere with the College’s ability to investigate allegations or to take corrective action.

The College prohibits retaliation against any individual who files a complaint (informal or formal) in good faith or participates in a harassment or discrimination inquiry. Disciplinary action will be taken against any individual who retaliates against a Complainant or participant in a harassment or discrimination inquiry, or who files a discrimination or harassment complaint in bad faith, or who maliciously or knowingly files false charges.

Respondent and Complainant may each choose someone in the College community to serve in an advisory role throughout the Procedure.

Procedures for Informal Resolution

*(The Informal Resolution process often provides an effective means of resolving most disputes. However, the Complainant may terminate the Informal Resolution process at any time and initiate a Formal Complaint without prejudice.*)
1. **Informal Discussion with Respondent:** Prior to the involvement of other parties or College officers, the Complainant may choose to discuss the concerns directly with the Respondent. The Respondent may not realize that his or her conduct is offensive or unwelcome. Many disputes can be resolved quickly and effectively with such direct communication. A complaint brought to the attention of the Respondent shortly after the allegedly offensive behavior occurs (i.e., immediately or in a few days) will usually result in more effective resolution.

2. **Informal Discussion with College Officials:** A Complainant may, of course, discuss concerns with a friend, confidant, advisor, or counselor. To initiate an informal discussion with College officials, however, a Complainant should contact one of the following individuals in a timely manner, ordinarily within fifteen days of the offending conduct (“days” as used herein shall mean “days when the College administrative offices are open”):

   Students should contact: Dean of Students
   Faculty (or librarians with special faculty status) should contact: Dean of the Faculty
   Staff should contact: Vice President for Business Affairs & Treasurer

   *(If the complaint is against one of the designated College officials, the Complainant should contact the Director of Human Resources, who will designate a representative of the College to handle the matter. In cases where the Complainant deems it necessary or desirable to avoid any possible conflict of interest, a more readily available supervisor or an officer in a different administrative branch of the College may be contacted.)*

3. **The Informal Discussion can help with any or all of the following options:**

   a. Assisting the Complainant to determine whether the behavior violates the Policy or to learn more about the Policy generally.

   b. Meeting with the individual whose behavior is alleged to be offensive or unwelcome and discussing the situation to make it clear that the behavior is offensive or unwelcome and should cease.

   c. Conducting an informal investigation with the effect and goal of ending the alleged behavior in an effective and expeditious manner.

   d. Contacting the supervisor of the person whose behavior is alleged to be offensive or unwelcome and requesting assistance to stop the behavior.

Based on the Informal Discussion, the College official designated in paragraph 2 above will determine what additional action, if any, is necessary.

4. **The Informal Discussion process will last as long as the Complainant deems it desirable to continue to meet with the College official designated above, but usually the College will try to resolve the problem at this early stage within ten days. Most complaints can be resolved at this stage. If not satisfied with the resolution from the Informal Discussion, the Complainant may proceed to the Formal Complaint process described below.**

**Procedures for Formal Resolution**
(If the complaint is against one of the designated College officials, the Complainant should contact the Director of Human Resources, who will designate a representative of the College to handle the matter. In those cases where the Complainant deems it necessary or desirable to avoid any possible conflict of interest, an officer in a different branch of the college may be contacted.)

1. A Complainant may omit the Informal Discussion process entirely and file a Formal Complaint with the Director of Human Resources. Formal Complaints alleging violation of the Policy must be filed in the Director’s office in a timely manner, ordinarily within fifteen days of the offending conduct, or shortly after the conclusion of the Informal Discussion process, usually within ten days. Formal Complaints must be in writing (except in cases where this would not be feasible) and should set out the details of the allegations. If the Complainant, after an initial meeting with the designated college official, decides to proceed, the official should inform the alleged offender of the allegation, of the identity of the Complainant, and provide a copy of the Formal Complaint.

2. In cases where the Respondent is a member of the faculty or staff, the Director or his or her designee will review the Formal Complaint and conduct an investigation, including relevant interviews. The Director or his or her designee will prepare a written report of his or her findings (“Findings”) as expeditiously as possible, usually within thirty days from the date that the Formal Complaint was filed, and will deliver the Findings to the Complainant and Respondent. In cases where the Respondent is a student, the Director will deliver the Formal Complaint to the Dean of Students, who will proceed according to the Procedure in Step 3c below.

3.a. The Director of Human Resources will then forward the Formal Complaint and the Findings to the Appropriate College Official. (“Appropriate College Official” as used herein, shall mean (i) the Dean of the Faculty when the Respondent is a member of the faculty, and (ii) the Vice President for Business Affairs and Treasurer, if the Respondent is anyone other than a student or faculty member.)

3.b. The following procedure will be followed when the Respondent is a faculty member with continuous tenure or an unexpired special or probationary appointment:

Step One. Upon receipt and review of the Formal Complaint and Findings, the Dean of the Faculty (or the President, if the charge is against the Dean, or the Chairman of the Board of Trustees, if the charge is against the President), prior to making a preliminary determination on the matter, will consult with the Respondent to ascertain whether a mutually acceptable resolution to the Formal Complaint exists. If there is no mutually acceptable resolution then the respective college official responsible for handling the Formal Complaint will consult in confidence with an Advisory Committee of tenured faculty about the Complaint and Findings, about strategies for resolution of the Complaint, and about possible sanctions against the Respondent. The Advisory Committee will be the three members of the Faculty Affairs Committee with the longest time in service at the College, but not the Chair, who may later be called upon to serve on the Hearing Committee. Following consultation with the Advisory Committee, the Dean will make a preliminary determination as to whether the Complaint, if found to be true, would be likely to result in the severe sanction or dismissal of the Respondent. Copies of the preliminary determination will be delivered to the Complainant and Respondent.

Mediation
After the Dean has made a preliminary determination, the Dean may wish to suggest that the matter be submitted for mediation, or the Complainant and Respondent may themselves elect to submit the matter to mediation by a mutually acceptable mediator. Under some circumstances, when the College deems it appropriate, the College may assume some or all the costs of the
mediation. If the parties mediate and agree with the outcome, the results of the mediation will be entered as the Final Determination of the case.

Step Two. If the Dean’s preliminary determination inclines towards severe sanction or dismissal, unless the Respondent requests in writing that the matter be resolved as the Dean has proposed, the Dean, prior to proceeding as described in paragraph 4 of this section, will forward copies of the Complaint and Findings, together with the preliminary determination, to a special ad hoc committee of tenured faculty, to be called herein the “Hearing Committee,” comprising the chairs of the following faculty committees:

Faculty Affairs Committee
Academic Affairs Committee
Committee on Professional Development
Gender Issues Committee
Student Affairs Committee

(The Complainant or Respondent may request that up to two members of the Hearing Committee be replaced peremptorily. If the Complainant or Respondent objects to additional members as interested parties, the objection must be communicated to the Director of Human Resources within three days of the formation of the committee, and the Director of Human Resources will rule on the validity of the objection. If the objection is ruled valid, or in the case of the chairs excused peremptorily, or in the case of committee members who are not tenured, the affected faculty committee will designate an alternative tenured member of the faculty to serve on the Hearing Committee. Ex officio and student members of these committees will not participate in the process of designating an alternative member of the Hearing Committee.)

Step Three. The Hearing Committee will study the Complaint, the Findings, a statement from the Respondent, the Dean’s preliminary determination, and conduct its own investigation, and will then advise the Dean, in writing, of its recommendation (a) on the merits of the allegations, (b) on whether overriding questions of academic freedom are at stake, and (c) on whether the Dean’s preliminary determination should go forward.

Governing Procedures for the Hearing Committee
The Hearing Committee will elect a chair, who will oversee its work and preside at the formal hearing. The Hearing Committee will conduct its own investigation, which may include gathering additional documents and interviewing both the Complainant and the Respondent and also other witnesses. Following its investigation, the Hearing Committee will hold a formal hearing, usually within a period of fifteen days from its receipt of the case. Both Complainant and Respondent may be present at the formal hearing, unless they explicitly waive that right or choose to submit only a written statement. The hearing affords both parties an opportunity to offer evidence, to answer questions from the Hearing Committee, and to confront adverse witnesses. Both Complainant and Respondent may have a colleague who works at the College present at the hearing in an advisory role. Because the formal hearing is a proceeding before the Respondent's faculty peers, the presence of legal counsel at the formal hearing is not permitted. The Hearing Committee will make an electronic record of the formal hearing, but not of its deliberations.

A primary responsibility of the Hearing Committee is to determine whether, in its judgment, overriding questions of academic freedom are at stake. Following the formal hearing, usually within five days, the Hearing Committee will advise the Dean in writing of its recommendation as to whether the Dean's preliminary determination should go forward. The Hearing Committee may
also suggest changes to the Dean's preliminary determination. Copies of the recommendation of the Hearing Committee to the Dean will be given to both the Complainant and the Respondent.

3.c. The following procedure will be followed when the Respondent is a student.

Upon receipt and review of the Complaint, the Dean of Students will make a preliminary determination as to whether such information, if found to be true, would be likely to result in the suspension, expulsion, or other severe sanction of the Respondent. If both Complainant and Respondent are students, the Dean, prior to proceeding, will forward copies of the Complaint to the Chairman of Student Court, and together they shall decide whether the case should be presented to the Student Court.

Mediation

After the Dean of Students has made a preliminary determination, the Dean may wish to suggest that the matter be submitted for mediation, or the Complainant and Respondent may themselves elect to submit the matter to mediation by mutually acceptable mediator.

If the Complainant is a member of the staff or the faculty and consents to adjudication of the Complaint by the Student Court, it will be adjudicated according to the procedures found in Section V of “The Student Justice System” in The Key; or, if the Complainant is a member of the staff or the faculty and does not consent to adjudication by the Student Court, the Dean of Students will forward copies of the Complaint to a special ad hoc committee comprising

The Associate Dean of the Faculty
The tenured faculty member of the Student Affairs Committee with the longest service at the College
The Chairman of the Student Court

(The Complainant or Respondent may request that up to two members of the ad hoc Committee be replaced peremptorily. If the Complainant or Respondent objects to additional members as interested parties, the objection must be communicated to the Director of Human Resources within three days of the formation of the committee, and the Director of Human Resources will rule on the validity of the objection. If the objection is ruled valid, or in the case of the members excused peremptorily, substitutes will be appointed as follows: if the Associate Dean of the Faculty is excused, the Director of Human Resources will designate an exempt staff member as a substitute; if the tenured faculty member of the Student Affairs Committee is excused, either another tenured member of the Student Affairs Committee will serve or the tenured faculty member of the Appeals Committee having the longest service at the College will serve. If the Chairman of the Student Court is excused, the Dean of Students will designate as a substitute either the President of the Student Body or another member of the student court.)

Governing Procedures for the ad hoc Committee
The Associate Dean of the Faculty (or substitute) will serve as chair of the ad hoc Committee and will oversee its work. The ad hoc Committee will conduct its own investigation, which may include gathering additional documents and interviewing both the Complainant and the Respondent and also other witnesses. Following its investigation, the ad hoc Committee may choose to hold a formal hearing, usually within a period of fifteen days from its receipt of the case. Both Complainant and Respondent may be present at the formal hearing, unless they explicitly waive that right or choose to submit only a written statement. The hearing affords both parties an opportunity to offer evidence, to answer questions
from the ad hoc Committee, and to confront adverse witnesses. Both Complainant and Respondent may have someone who works at or attends the College present at the hearing in an advisory role. The presence of legal counsel at the formal hearing is not permitted. The ad hoc Committee will make a record of the formal hearing, but not of its deliberations. The Committee will inform the Dean of Students of its Recommendation.

4.a. As expeditiously as possible, usually within fifteen days from the date of receipt of the Findings, the Appropriate College Official shall review the Findings and conduct additional investigations, as needed, to make a final determination as to what action, if any, is necessary (the “Determination”). Either party may appeal the Determination within the time period and in the method described below.

4.b. In a case where paragraph 3(b) of this section applies, if the final Determination of the Dean of the Faculty (i.e., the determination rendered after the Dean has received the recommendation of the Hearing Committee described in “step three” above) would require severe sanction or dismissal of the Respondent, and if either the Respondent or the Complainant appeals the Determination, then the Dean’s Determination and any appeals of the Respondent or the Complainant shall be communicated in writing to the Hearing Committee described in paragraph 3.b. above, and such committee shall, usually within a period of five days, advise the Dean, in writing, whether they concur with the Determination. A copy of such written communication from the Hearing Committee to the Dean, together with the Dean’s written comment, if any, will be forwarded by the Dean to the President of the College to be associated with the written appeal and reviewed by the President as a part of the appeal.

4.c. In a case where paragraph 3(c) of this section applies, if the final Determination of the Dean of Students would require severe sanction or suspension or expulsion of the Respondent, and if either the Respondent or the Complainant appeals the Determination, then the Determination of the Dean of Students, the recommendation of the ad hoc Committee, and any appeals of the Respondent or the Complainant shall be communicated in writing to the President of the College for review.

(The provisions in this Grievance Procedure for notifying all parties of findings and determinations will be followed so long as the College determines that there are no violations of state or federal privacy laws, including, but not limited to, the Family Educational Rights and Privacy Act.)

5. If no appeal is filed within the designated time period (defined below in Section 1 of “Procedures for Appeal”), the Determination will be final. The Director will then work with other College officials to enforce the Determination. Regardless of whether an appeal is filed, no party will have a right to pursue any other College grievance procedures relevant to this complaint.

Procedures for Appeal

1. Either the Complainant or the Respondent may initiate an appeal from the Determination. The appeal must be filed in the President’s office within five working days from the date of the Determination. (If the President is involved as either Complainant, Respondent, or an interested party, the appeal will be filed with the Chairman of the Board of Trustees.) The appeal must be in writing and must set forth (1) the substantive reason(s) for the appeal; (2) any new information; and (3) the identity of all witnesses. A copy of the appeal must be given to the non-appealing party, who must provide a written response to the appeal to the President’s office within five working days after receiving the copy of the appeal, and must set forth: (1) a response to the appeal allegations; and (2) the identity of all witnesses.

2. The President will conduct an appeal hearing to gather any additional information deemed necessary. Following the appeal hearing, the President will make a final determination, as expeditiously as possible,
usually within twenty days from the date that the appeal was filed. Except as provided in paragraph 3 below, the decision of the President is final. The College will take appropriate corrective action in the event an employee or student is found to have violated this Policy, up to termination for employees or expulsion for students.

3. If the President’s decision on an appeal would result in the dismissal of a Respondent who is a faculty member with continuous tenure, or an unexpired special or probationary appointment, such Respondent shall be entitled, upon written request within fourteen days of the President’s decision, to have the record in the matter reviewed by the Executive Committee of the Board of Trustees. It shall then be the responsibility of the Executive Committee to reverse, affirm, or modify the President’s decision on the appeal.

Additional Violations Subsequent to the Final Determination

Any violation by the Respondent of the terms of the Final Determination imposed by the College—either by renewed acts of harassment or retaliation against the Complainant or by a breach of agreed confidentiality—is regarded as a severe infraction under this Policy, subject to additional sanctions, including dismissal. In the case of a faculty member with continuous tenure, or an unexpired special or probationary appointment, the President will present the alleged violation of the Final Determination to the Hearing Committee described above (even if, because of the passage of time, the membership will be different) and seek its recommendation on any additional sanctions being considered. The Hearing Committee will review the evidence of the alleged violation and statements from the Respondent before making a written recommendation to the President. Imposition by the College of additional sanctions or of dismissal may be appealed to the Executive Committee of the Board of Trustees (see "Procedures for Appeal," Section 3, above).