

THE UNIVERSITY OF ARIZONA

NONDISCRIMINATION AND ANTI-HARASSMENT POLICY – INTERIM REVISED¹

POLICY

The University of Arizona is committed to creating and maintaining an environment free of discrimination, harassment, and retaliation that is unlawful or prohibited by University policy. The University prohibits discrimination, including harassment and retaliation, by University employees, students, contractors, or agents of the University and by anyone participating in a University sponsored activity against an individual based on a protected classification. Protected classification includes race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation,² gender identity,³ or other protected category. The University also prohibits retaliation because an individual has engaged in a protected activity.

The University will take prompt and appropriate action to: (1) thoroughly investigate complaints under this policy; and (2) prevent, correct and, if necessary, discipline individuals who engage in behavior that violates this policy in accordance with University policies.⁴ All members of the University community are responsible for participating in creating a campus environment free from all forms of prohibited discrimination and for cooperating with University officials who investigate allegations of policy violations.

¹ This policy supersedes the University's Sexual Harassment Policy (2000).

² For the purposes of this policy, "sexual orientation" means an individual's heterosexuality, homosexuality, or bisexuality, whether the orientation is real or perceived.

³ For the purposes of this policy, "gender identity" means an individual's actual or perceived gender, including an individual's self-image, appearance, expression, or behavior, whether or not that self-image, appearance, expression, or behavior is different from that traditionally associated with the individual's sex at birth as being either female or male.

⁴ Any such disciplinary action shall be imposed in accordance with the Classified Staff Human Resources Policy Manual, University Handbook for Appointed Personnel, Student Code of Conduct, Arizona Board of Regents' Policy Manual, or any other applicable process.

APPLICABILITY OF POLICY

This policy applies to:

- All University employees in all aspects of their employment relationship with the University;
- All University students in their admission to and participation in the University's educational programs and activities; and
- All persons participating in or accessing University sponsored programs, activities, or facilities.

PROHIBITED DISCRIMINATION, INCLUDING HARASSMENT AND RETALIATION

Discrimination occurs when an individual, or group of individuals, is treated adversely because they belong to a classification of individuals that is protected by an employment discrimination statute or University policy as set forth above. The failure to provide reasonable accommodations required by University policy for disability or religious practice may constitute discrimination.

Harassment

Harassment is a specific form of discrimination. It is unwelcome behavior based on a protected classification that is sufficiently severe or pervasive to create an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in University sponsored activities. Additionally, sexual harassment, whether between individuals of the same or different sex, includes unwelcome conduct of a sexual nature that is made, either explicitly or implicitly, a condition of an individual's education, employment, or participation in a University program or activity, and/or the submission to or rejection of such conduct is a factor in decisions affecting that individual's education, employment, or participation in University sponsored activities.

Harassing conduct may take many forms, including verbal acts and name calling, as well as nonverbal behavior, such as graphic, electronic, and written statements, or conduct that is physically offensive, harmful, threatening, or humiliating.

Retaliation

Retaliation occurs when an adverse action is taken against an individual for engaging in protected activity. Protected activity consists of: (1) opposing conduct reasonably believed to constitute discrimination, including harassment, which violates an employment discrimination statute or which University policy prohibits; or (2) filing a complaint about such practice; or (3) testifying, assisting, or participating in any manner in an investigation or other proceeding related to a discrimination complaint. Adverse actions that are reasonably likely to deter a complaining individual or others from engaging in protected activity are prohibited.

MANAGEMENT'S PREVENTION AND REPORTING RESPONSIBILITIES

Employees or agents of the University who (a) supervise other employees, graduate or undergraduate students, contractors, or agents; (b) teach or advise students; or (c) have management authority related to a University sponsored program or activity are required to:

- Engage in appropriate measures to prevent violations of this policy; and
- Promptly notify the Equal Opportunity and Affirmative Action Office after being informed of or having a reasonable basis to suspect a policy violation; or
- If both the alleged policy violator and the person who is the subject of the conduct are students, promptly notify the Dean of Students Office, which will promptly notify the Equal Opportunity and Affirmative Action Office.

REPORTING DISCRIMINATION, HARASSMENT, OR RETALIATION

Reporting Complaints to University Offices

An individual who believes that he or she has been subjected to discrimination, harassment, or retaliation in violation of this policy should report the matter immediately to enable the University to take prompt remedial action, as set forth below:

- If both the alleged policy violator and the person who is the subject of the potential discrimination, harassment, or retaliation are students, then the person who is the subject of the conduct should contact the Dean of Students.
- For all other instances in which an individual believes he or she may have been subjected to discrimination, harassment, or retaliation as defined in this policy, or in cases in which an individual in a management position as described above believes a policy violation has occurred, he or she should contact the Director of the Equal Opportunity and Affirmative Action Office for information about resolving concerns, including complaint-filing options and procedures.
- If the person(s) allegedly violating this policy are employed by the Dean of Students Office or the Equal Opportunity and Affirmative Action Office, then an individual may contact the Executive Vice President and Provost.

Good Faith Allegations

Because of the nature of discrimination, harassment, or retaliation complaints, allegations often cannot be substantiated by direct evidence other than the complaining individual's own statement. Lack of corroborating evidence should not discourage individuals from seeking relief under this policy. No adverse action will be taken against an individual who

makes a good faith allegation of discrimination, harassment, or retaliation under this policy, even if an investigation fails to substantiate the allegation. However, individuals who make dishonest statements or make statements with willful disregard for the truth during an investigation or enforcement procedure under this policy may be subject to disciplinary action in accordance with existing University policies.

Anonymous Inquiries and Complaints

Members of the University community may contact the Equal Employment and Affirmative Action Office and students may contact the Dean of Students Office at any time to ask questions about discrimination, harassment, retaliation, or complaint procedures without disclosing their names and without filing a complaint. Because of the inherent difficulty in investigating and resolving allegations from unidentified persons, the University discourages individuals from making anonymous complaints. However, if an individual desires to make a complaint anonymously, then the University will weigh factors such as the following to determine the appropriate response to an anonymous allegation:

- The source, specificity and nature of the information provided;
- The seriousness of the alleged conduct;
- The objectivity and credibility of the source of the report;
- Whether other individuals potentially can be identified who were privy to the alleged policy violation; and
- Whether those individuals are willing to pursue the matter.

If, based upon these factors, it is reasonable for the University to investigate a matter, then the University will proceed with an investigation.

Reporting Complaints to Outside Agencies

University employees and students have the right to file discrimination, harassment, and retaliation complaints with outside agencies as well as with the University's Equal Opportunity and Affirmative Action Office and the Dean of Students Office. If an individual files a complaint with an external agency, the filing will not affect the University's investigation concerning the same or similar events.

CONSEQUENCES OF POLICY VIOLATIONS

Members of the University community who violate this policy will be subject to disciplinary action that could include letters of reprimand, demotion, denial of promotion, termination from employment or termination from educational programs, or other appropriate administrative action.

AFFILIATED ENTITIES

University employees or students who work or study at a worksite or program of an organization affiliated with the University (affiliate) are subject to this policy while at

such worksite or participating in such program. Similarly, affiliates are obligated to comply with all applicable state and federal statutes and regulations regarding equal employment opportunity and nondiscrimination. If a University employee or student believes that he or she has been subjected to discrimination, harassment, or retaliation while working at or participating in a program of an affiliate in violation of this policy, he or she should contact the Equal Opportunity and Affirmative Action Office or Dean of Students Office in accordance with the reporting provisions of this policy.

CONFIDENTIALITY

Employees of the Equal Opportunity and Affirmative Action Office, employees of the Dean of Students Office, and all responsible administrators who receive reports of discrimination, harassment, or retaliation shall maintain the confidentiality of the information they receive, except where disclosure is required by law or is necessary to facilitate legitimate University processes, including the investigation and resolution of discrimination or harassment allegations.

SOURCE REFERENCES

The University's Nondiscrimination and Anti-harassment Policy is based on the amended provisions of Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1975, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, and other applicable federal and state laws, and Arizona Board of Regents and University policy.

Enforcement of this Policy is subject to constitutional protections
for free speech, association, and the press.