



Policy

University Policy P-13.08-03/17

Policy Title: Prohibition of Discrimination, Harassment and Retaliation

Originator: Dr. Martha D. Saunders, President

Responsible Office: Equal Opportunity Programs

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1. Introduction and Purpose.

The University of West Florida is dedicated to providing an inclusive and welcoming environment for all who interact in our community. In continuing to build and maintain a diverse environment, UWF strives to attract students, faculty and staff from a variety of cultures, backgrounds and life experiences. The University of West Florida is committed to ensuring that each member of the University community is permitted to work and study in an environment which is free from discrimination and harassment based on the following protected classes: **age, color, disability, gender, gender identity, sex, sexual orientation,¹ marital status, national origin, race, religion, and veteran status** and which is free from prohibited retaliation, as described in this policy.

2. Policy Statement.

The University has adopted the following policy statement to ensure that educational and employment decisions made by the University are based on the qualifications, skills and abilities of those desiring to work, study and participate in our University community:

¹The primary policy governing discrimination and harassment based on gender, gender identity, sex, sexual orientation and associated claims of retaliation is University Policy P-14.02-02/15 *Sexual Misconduct, Sexual Violence, Gender-Based Discrimination and Retaliation*. In cases where University Policy P-14.02-02/15 does not apply to either the Complainant or the Accused/Respondent, or is otherwise inapplicable, then this policy, University Policy P-13.08-03/17 *Prohibition of Discrimination, Harassment and Retaliation*, shall govern.

The University of West Florida does not tolerate discrimination, harassment, and retaliation, as described in this policy, in the workplace or educational environment.

- Discrimination and harassment by any member of the University community against any other member of the University community on the basis of the individual's age, color, gender, sex, sexual orientation, gender identity, disability, marital status, national origin, race, religion, or veteran status is prohibited.
- Retaliation, as described in this policy, by any member of the University community against any other member of the University community is prohibited.

Each member of the University community is responsible for taking the steps needed to become knowledgeable of this policy, and to refrain from conduct that violates this policy. While it is recognized that the University honors freedom of academic expression, it is essential that the University maintain a working and educational environment free of prohibited discrimination, harassment and retaliation.

3. Scope of the Policy.

For purposes of this policy, the University community is defined as the employees, officers, students and agents of the University. This policy applies to all such persons while they are on University property or are participating in University-sponsored activities off campus. This policy also applies to applicants for employment at the University. In addition, vendors, contractors and other third parties are required to adhere to the prohibitions of this policy when conducting business with the University.

4. Definitions.

(A) Complainant/Respondent.

The Complainant is the individual reporting allegations of or filing a complaint of possible discrimination, harassment or retaliation. The Respondent is the individual(s) against whom the Complainant has filed a complaint or made a report of discrimination, harassment or retaliation.

(B) Discrimination.

For the purpose of this policy, discrimination is defined as differential treatment based on membership in a protected class. Conduct which falls into the definition of discrimination includes, but is not limited to, the following:

- (I) Disparity of treatment in the employment environment in hiring, promotion, dismissal, pay and other applicable terms and conditions of employment on the basis of membership in a protected class;

(II) Disparity of treatment in the educational environment in academic or educational programs, activities and related services on the basis of membership in a protected class; or

(III) Disparity of treatment in the educational environment such as limitations on participation in athletic, social, cultural or other activities of the University based upon membership in a protected class that is not based on a bona fide requirement or distinction.

(C) Harassment Based Upon a Protected Class.

Harassment, as defined by this Policy, is unwelcome conduct based on an individual's protected class.

(D) Protected Classes.

For the purposes of this policy, the University recognizes the following protected classes: age, color, disability, gender, gender identity, sex, sexual orientation, marital status, national origin, race, religion, and veteran status.

(E) Protected Activities.

Members of the University community engage in Protected Activities when they participate in any of the following activities:

(I) Good faith reporting of or filing a complaint of discrimination, harassment or retaliation prohibited by this policy.

(II) Participating in a University, State or Federal agency investigation or review regarding a complaint of discrimination, harassment, or retaliation.

(III) Opposing or protesting discrimination, harassment or retaliation.

(IV) Inquiring about, discussing, or disclosing an employee's own salary information or the salary of another employee or applicant in accordance with Executive Order 13655 Pay Transparency.

(F) University Community.

University community is defined as the employees, officers, students and agents of the University while they are on University property, while they are engaged in University business or while they are attending activities sponsored by the University.

5. Prohibited Conduct.

(A) Discrimination as defined in this policy in Section 4(B) is prohibited.

(B) Harassment based upon an individual's protected class that is sufficiently severe or pervasive, so as to alter the terms and conditions of the individual's employment environment or substantially disrupt the individuals' work or educational environment is a violation of this policy and is prohibited.

The following are additional examples of harassment that constitute a violation of this policy:

- (I) Where submission to such conduct or request is made either explicitly or implicitly a term or condition of an individual's employment or academic status or success, or
- (II) Where submission to or rejection of such conduct or request by an individual is used as a basis for employment or academic decisions affecting such individual, or
- (III) Where such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic environment or creates an objectively intimidating, hostile or offensive work or academic environment.

(C) Retaliation.

- (I) Retaliatory conduct taken against an employee, officer, student or agent of the University because he or she engaged in a protected activity, that is sufficiently severe or pervasive, so as to alter the terms and conditions of the employee, officer, student or agent's individual's employment or academic environment is a violation of this policy and is prohibited.
- (II) Action Taken by Supervisor or Evaluator. A materially adverse employment or educational action taken against an employee, officer, student or agent of the University because he or she engaged in a protected activity by an individual who supervises or evaluates the employee, officer, student or agent is a violation of this policy and is prohibited.

- (a) For purpose of this policy, a materially adverse employment action is one which would dissuade a reasonable person from engaging in protected conduct.

6. Timeliness of Reports/Complaints.

The University encourages prompt reporting of concerns of discrimination, harassment and retaliation. Prompt reporting can facilitate more effective investigations due to greater likelihood of witness availability and reliability of witness recall, and can lead to quicker resolution of concerns. Therefore, reports/written complaints should be submitted within 180 days of the event or act which is considered to be discriminatory, harassing or retaliatory. However, the University reserves the right to investigate complaints filed after 180 days from the event or act which is alleged to be discriminatory, harassing or retaliatory, where circumstances warrant.

7. How to Report Possible Discrimination, Harassment and/or Retaliation.

University employees, students, and other members of the University community who believe they may have been subject to conduct prohibited by this policy are encouraged to report this information to any of the following:

- the employee's UWF immediate supervisor,
- any UWF vice president,

- the UWF Dean/AVP of University College,
- the UWF Title IX Coordinator,
- the UWF Human Resources Director,
- the UWF Athletic Director and the Associate Athletic Director,
- the UWF Equal Opportunity Programs,
- the UWF Dean of Students,
- the UWF Director of Housing and Residence Life office, a Housing and Residence Life Hall Director, or
- the UWF Office of the General Counsel.

Equal Opportunity Programs is located in Building 19. The telephone number is 474-2914 and the fax number is 474-2949. For contact information for the other individuals, please consult <https://marina.uwf.edu/directory/#/people>.

The UWF Police Department should be contacted for any concerns for personal safety or damage to or destruction of University property. The telephone number for the UWF Police department is 850-474-2415.

8. Responsibility to Report.

Any University supervisory employee who observes conduct which could constitute behavior which is prohibited by this policy who receives a report of, or learns of allegations of discrimination, harassment or retaliation as defined by this policy, is required to immediately report the information to Equal Opportunity Programs. Supervisory employees who fail to report such information in a timely manner may be subject to disciplinary action up to and including dismissal from employment.

9. Filing a Written or On-line Complaint.

Individuals who report concerns of discrimination, harassment or retaliation based on a protected class will be invited to submit a written complaint. Written complaints may be filed in person at the Equal Opportunity Programs office or may be submitted online. The procedure for processing the reported information will continue regardless of whether a written complaint is submitted.

Individuals who are considering filing a complaint of discrimination, harassment or retaliation or who wish to discuss concerns related to discrimination, harassment or retaliation based upon a protected class may meet with an investigator in the Equal Opportunity Programs by calling 850-474-2914.

10. Responsibility of University Employees to Cooperate in an Investigation.

University employees have a duty to cooperate fully in an investigation of discrimination, harassment or retaliation. This duty includes, among other things, speaking with the investigator and providing copies of any documentation which relates to the complaint being investigated. The failure or refusal of any employee to cooperate in an investigation may result in disciplinary action up to and including dismissal from employment.

11. Report/Complaint Processing.

After receiving a report of conduct which could constitute an alleged violation of this policy, an investigator from Equal Opportunity Programs or designee will invite the individual who believes he or she may have been subject to prohibited conduct to discuss the concerns, this policy, and the investigation procedure.

Temporary Measures.

The University may, in order to promptly address concerns raised, take action before an investigation has begun, or during an inquiry or investigation, regardless of whether a written complaint is filed, in an effort to prevent prohibited conduct or prevent conduct which, if continued, would constitute prohibited conduct. This action may include, but is not limited to, moving a student or employee to a different residence hall location or employment location, separating individuals, issuing no contact directives, assigning educational measures, and taking other remedial efforts to stop or prevent prohibited and unwelcome conduct.

Reports and complaints submitted under this policy will be processed in accordance with the procedures associated with this policy. The investigation procedure is available on the UWF website Equal Opportunity Programs page: UWF.edu/EOP.

An Investigative Report will be prepared for complaints/reports which result in an investigation. The Complainant and Respondent will be permitted an opportunity to comment on the Investigative Report. After the comment period, a Final Determination, finding whether the conduct alleged constituted a violation of University policy, will be issued by the University.

12. Appeal of the Final Determination.

The Complainant and/or the Respondent may appeal the Final Determination by filing a written Appeal within 21 calendar days of the date of the Final Determination. The bases for Appeal are limited to the following:

- (A)** New relevant evidence/information is discovered which was not available by the date the Investigative Report was issued, or
- (B)** The Procedure for Investigation and Disposition of Complaints of Discrimination, Harassment or Retaliation was not followed, or
- (C)** The Final Determination is not supported by sufficient evidence/information.

For Appeal Procedures, see UWF website Equal Opportunity Programs page UWF.edu/EOP.

13. Remedial and/or Educational Measures and Disciplinary Action.

(A) Remedial and/or educational measures may be taken by the University at any point during the processing of a report/complaint. Remedial and/or educational measures may be included in the Investigative Report as recommendations or directives, and/or such measures may be included as directives in the Final Determination. Examples of some remedial measures include, but are not limited to, moving employees or students to different areas or different shifts, directing employees or students to avoid certain behavior, or to avoid contact with designated individuals. Examples of educational measures include, but are not limited to, reinforcement of policy requirements, informal and formal training, tutorials, research, reading and/or writing assignments.

(B) Disciplinary Action.

(I) Conduct prohibited by this or any university policy may result in disciplinary action up to and including employment dismissal or student expulsion. Disciplinary action for employees is subject to applicable University regulations and policies and applicable collective bargaining agreements. Disciplinary action for students is subject to the Student Code of Conduct.

(II) The University shall take action against vendors, contractors or other third parties found responsible for violating this policy within the limits of the University's authority.

(III) A Complainant, Respondent or witness who is an employee or student, who is found to have knowingly made false reports/complaints of prohibited discrimination, harassment or retaliation or who is found to have knowingly provided false information in an investigation of such reports/complaints may be subject to disciplinary action up to and including employment dismissal or student expulsion.

14. Investigation Records.

Pursuant to Section 1012.91, Florida Statutes, records of investigations of employee misconduct, including allegations of discrimination, are confidential and exempt from Chapter 119 requests until the investigation is completed. In cases where sexual harassment is alleged, however, information identifying a Complainant or witness or which could lead to the identification of a Complainant or witness is confidential and exempt from Chapter 119 requests at all times.

Records within an investigation may also be confidential and exempt from public records requests, such as faculty academic evaluations (section 1012.91, F.S.) and personally identifiable student records (section 1006.52, F.S.; 20 U.S.C. Section 1232g).

15. Conflicts of Interest.

If an individual, who, because of his or her University position, would ordinarily participate in the administration or disposition of a complaint under this policy, files a complaint or becomes involved in a case as a Respondent or a Witness, that individual will be replaced in the investigation process by the University, and the University will assign an alternate individual(s) to participate in the administration and/or disposition of the matter.

Change Justification:

This policy is being updated with technical corrections only.

Approved: Dr. Martha D. Saunders, President

Date: 3/24/2017

History:

P-13.00-02/09 Policy Prohibiting Discrimination, Harassment and Retaliation, adopted February 2009; P-13.01-12/09 Policy Prohibiting Discrimination, Harassment and Retaliation, amended as interim policy December 2009; P-13.02-02/10 Policy Prohibiting Discrimination, Harassment and Retaliation, adopted February 2010; P-13.03-05/10 Policy Prohibiting Discrimination, Harassment and Retaliation, adopted May 2010; P-13.05-05/15 Policy Prohibiting Discrimination, Harassment, and Retaliation, adopted May 2015; P-13.06-09/15 Policy Prohibiting Discrimination, Harassment, and Retaliation, adopted September 2015; P-13.07-06/16 Prohibition of Discrimination, Harassment and Retaliation, adopted June 2016; P-13.08-03/17 Prohibition of Discrimination, Harassment and Retaliation, adopted March 2017.