

## DISCRIMINATION, HARASSMENT AND RETALIATION POLICY

The University of Wisconsin-Whitewater strives to foster an environment of respect for all members of the university community free from discrimination and harassment. Incidents of discriminatory conduct are detrimental to the individuals directly involved and diminish the university community.

UW-Whitewater is committed to the elimination of discrimination and discriminatory harassment toward anyone in the UW-Whitewater community. In accordance with federal and state laws and University of Wisconsin System policy, this policy outlines expectations of conduct and procedures applicable to students, employees, and guests of UW-Whitewater.

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### SCOPE

This policy applies to all areas of UW-Whitewater programs, activities, employment practices and operations, including the conduct of all students and employees that arises out of their employment, educational or academic status, as well as to the conduct of all guests, visitors, vendors, contractors, subcontractors and others who do business with UW-Whitewater.

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### BACKGROUND

[Regent Policy Document 14-6](#) states that institutions shall have, “1) policies and procedures consistent with this Board policy for the prevention and prohibition of discrimination, harassment and retaliation against students or employees; and 2) procedures in place to ensure prompt and corrective action whenever discrimination, harassment or retaliation may occur.” “Each institution shall develop a process to notify prospective and current students, student organizations, job applicants and employees of its institutional policies and procedures regarding discrimination, discriminatory harassment, and retaliation.” Please see Procedures section below.

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### DEFINITIONS

#### **Discrimination:**

Conduct that adversely affects any aspect of an individual’s employment, education, or participation in UW-Whitewater’s activities or programs or has the effect of denying equal privileges or treatment to an individual on the basis of that individual’s protected status or another category as defined in this policy.

#### **Discriminatory Harassment:**

A form of discrimination consisting of unwelcome verbal, written, graphic or physical conduct that:

1. Is directed at an individual or group of individuals on the basis of the individual or group of individuals' actual or perceived protected status, or affiliation or association with person(s) within a protected status (as defined above); and
  2. Is sufficiently severe or pervasive so as to interfere with an individual’s employment, education or academic environment or participation in institution programs or activities and creates a working, learning, or living environment that a reasonable person would find intimidating, offensive or hostile.
- To constitute prohibited harassment, the conduct must be both objectively and subjectively harassing in nature. Harassment may include but is not limited to verbal or physical assaults, threats, slurs or derogatory or offensive comments that meet the definition set forth in this policy. Harassment does not

have to be targeted at a particular individual in order to create a harassing environment, nor must the conduct result in a tangible injury to be considered a violation of this policy. Whether the alleged conduct constitutes prohibited harassment depends on the totality of the particular circumstances, including the nature, frequency, and duration of the conduct in question, the location and context in which it occurs, and the status of the individuals involved.

**Retaliation:**

Adverse action taken against an individual in response to, motivated by or in connection with an individual's complaint of discrimination or discriminatory harassment, participation in an investigation of such complaint and/or opposition to discrimination or discriminatory harassment in the educational or workplace setting

**Sexual Harassment:** Conduct on the basis of sex that satisfies one or more of the following:

- a. An employee of the institution conditions the provision of an aid, benefit, or service of the institution directly or indirectly on an individual's participation in unwelcome sexual conduct;
- b. Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in a program or activity of the university that, when using the legal "reasonable person" standard:
  1. Is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution's education program or activity; or
  2. Is so severe or pervasive and objectively offensive that it has the purpose or effect of unreasonably interfering with an individual's academic or work performance or participation in a university sponsored or supported activity, or creates an intimidating, hostile, or offensive academic, working, or program or activity related environment.

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**POLICY STATEMENT**

It is the policy of UW-Whitewater to maintain an academic and work environment free from discrimination, discriminatory harassment, and retaliation for all students, employees and guests.

UW-Whitewater will not tolerate discrimination or harassment by or toward students, employees, and guests on the basis of sex, race, religion, color, creed, disability, sexual orientation, gender identity or expression, national origin, ancestry, age, marital status, pregnancy, political affiliation, arrest or conviction record, veteran's status, or any other prohibited basis defined by federal or state law or UW System policy.

Retaliation toward an individual for filing a complaint of discrimination or discriminatory harassment, participation in an investigation of such complaint and/or opposition to discrimination or discriminatory harassment in the educational or workplace setting is also a form of harassment and is therefore prohibited.

Use of institution technology (computers, e-mail systems, voice mail system, and webpages) for the purposes of discrimination, discriminatory harassment, or retaliation is also prohibited. Such behaviors will not be tolerated and will be handled in accordance to the procedures outlined in this policy.

Any person who believes they have been subjected to this type of prohibited activity should immediately report it to the appropriate institution officials or offices as listed in "Procedures" section below. Students who file a complaint under this policy have the right to appeal of the chancellor's or dean's decision to the Board of Regents, as permitted under Wisconsin Statute §36.12(2)(b).

**The following protections shall apply to this policy in regard to an individual's protected status:**

#### **Students**

No student may be denied admission to, participation in or the benefits of, or be discriminated against in any service, program, course or facility of UW-Whitewater because of the student's race, color, creed, religion, age, sexisms, sexual orientation, gender identity or expression, national origin, ancestry, disability, pregnancy, marital or parental status, military service, veteran status, or any other category protected by law, including physical condition or developmental disability as defined in Wisconsin Statute §51.01(5).

#### **Employees**

No employee or prospective employee may be discriminated against on the basis of race, color, creed, religion, age, sexisms, sexual orientation, gender identity or expression, national origin, ancestry, disability, pregnancy, marital or parental status, genetic information, arrest or conviction record, military service, veteran status, use or non-use of lawful products off university premises during nonworking hours, declining to attend a meeting or participate in any communication about religious matters or political matter, or any other category protected by law.

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#### **PROCEDURES**

##### **Procedures for Reporting Discrimination or Harassment:**

Any member of the university community who has been either a target of or a witness to discrimination or harassment has a right to take action either by confronting those involved directly or by reporting the incident to a university official (as described under "1. Complaint Intake"). While every effort will be made to respect both the confidentiality and the wishes of the complainant, university officials have an ethical and legal obligation to take action to prevent and stop illegal harassment or discrimination and may therefore be compelled to take some action, even if the complainant is unsure of what action is desired. Incidents reported to university officials will be handled in a manner that protects the privacy and due process rights of everyone involved. Specific incidents of alleged discrimination or discriminatory harassment will be reviewed on a case-by-case basis in accordance with the procedures outlined below. Due consideration will be given to the protection of individual First Amendment rights to freedom of speech, expression, and academic freedom.

The following procedures have been established to provide a framework for handling such concerns.

##### **Complaint Intake**

- University officials prepared to deal with concerns about discrimination and harassment include: Title IX Coordinator; Dean of Students office staff; Chief Human Resources Officer; Deputy Title IX Coordinators; University Police; University Housing staff; Associate Vice Chancellor of Equity, Diversity, Inclusion and Support Programs & Senior Diversity Officer; and supervisors, such as Department Chairs, Directors, and Deans.

- When someone raises a concern about discrimination or harassment, they should be directed to the appropriate university official listed above. That official will then:
  - 1) Listen and help clarify both the concern and the desired outcome
  - 2) Explain the options available which may include an offer of University/community resources, explanation of the University/legal adjudication processes, offer of interim protection measures, and/or offer of academic accommodations
  - 3) Attempt a resolution if desired by the individual with the concern and
  - 4) Submit a complaint intake form to the appropriate office:

[Hate Bias](#)

[Student Discrimination](#)

[Employee Discrimination](#)

- The university official to whom a report of sexual violence or sexual harassment has been made will fill out a [Sexual Misconduct Form](#).

### **Informal Resolution**

- Informal resolution has the goal of ending offensive behavior and resolving the concern rather than assessing blame and exacting a penalty. If a concern can't be resolved informally, or if the behavior is so serious or persistent as to warrant disciplinary action, it should be handled through formal procedures.
- If an informal resolution is to be attempted by one of university official listed above, the university official will meet with the individual accused of the offending behavior to explain the concern and get a response. The university official will endeavor to respect the complainant's wishes with respect to confidentiality and participation in meeting with the accused individual. While informal resolution may result in some mutually agreeable action, such as an apology or a behavior contract, no record of a complaint resolved informally will be placed in the respondent's personnel file or student record.

### **Formal Procedures**

- The purpose of formal action is to determine if the UW-Whitewater policy on discrimination, harassment and retaliation has been violated and, if so, to enact disciplinary sanctions and/or prescribe a course of action that will resolve the situation. Disciplinary sanctions may include but are not limited to a written reprimand, probation, suspension, dismissal or expulsion.
- Formal procedures are set in motion when a signed written complaint is filed with one of the university officials listed above. The complaint must contain the name and signature of the complainant, details of the situation precipitating the complaint, and a statement of desired outcome. When a signed complaint has been received, the university official receiving the complaint will notify the appropriate department as indicated below, who will set in motion the appropriate process and notify the individual or group against whom the complaint has been made.
- The process for filing a complaint, investigating and hearing complaints and grievances against individuals depends upon the status of the accused (faculty, academic staff, university staff, or student). The following policies guide these processes:

**Faculty:** Complaints against Faculty will be reviewed by the chancellor, or designee, and processed in accordance with [Faculty Personnel Rules \(UW-W Chapter 3\)](#), and [Chapter 6 - Rules Governing Complaints and Grievances Against Faculty](#).

**Academic Staff:** Complaints against Academic Staff will be investigated by the Office of Human Resources or the Vice Chancellor of Administrative Affairs or designee in accordance with [Academic Staff Personnel Policies and Procedures](#)

**University Staff:** Complaints against University Staff will be investigated by the Office of Human Resources or the Vice Chancellor of Administrative Affairs or designee in accordance with [UW System Administrative Policy 1241: Complaint Procedures and UW System Administrative Policy 1233: Grievance Procedures](#).

**Students:** Complaints against students will be investigated by the Dean of Students Office and or referred to the appropriate department or unit, in accordance with [UWS Chapter 14](#) and [UWS Chapter 17](#).

**Guests:** Complaints against guests or otherwise non-students or employees will be investigated by University Police, and other campus departments as necessary, in accordance with [USW Chapter 18](#).

- In determining whether discrimination or harassment has occurred, the investigating body will apply state and federal statutes, regulations, and case law relevant to the basis of discrimination being alleged. Where there is a question as to whether the action or conduct constitutes discrimination or harassment, appropriate legal counsel will be consulted.

If the relevant policies above do not contain their own procedure for appeals, the following appeal process will apply.

### **Appeal Process**

For conduct defined in this policy, where the sanction is prescribed by the University Administrator, the Respondent may appeal in writing within 14 days of the date of the written decision to the Chancellor or their designee (i.e. Appellate Administrator). The Appellate Administrator has 30 days from date of receipt of an appeal to respond and shall sustain the decision unless the Appellate Administrator finds any of the following:

- The information and evidence presented as a result of the investigation does not support the findings or decision.
- Appropriate procedures were not followed which resulted in material prejudice to the respondent
- The decision was based on factors proscribed by state or federal law.
- Alleged violations of other UWS Chapter codes will follow each chapters appeal process.

### **Discretionary Appeal to the Board of Regents**

For conduct defined in this policy, institutional decisions shall be final, except the board of regents may, at its discretion, grant a review upon the record, upon written request submitted by the Respondent within 14 days of the final institutional decision, as permitted under s.36.12(2)(b), Wisconsin State Statute.

### **Record Keeping Timelines**

- A record identifying a specific individual will be kept only if the person has been notified of the existence of the report and been given an opportunity to attach a counter statement; in that case, the record will be kept for six years and destroyed if no further reports have been filed.

- All reports of discrimination and harassment must be handled in a timely fashion. Complaints must be filed with UW- Whitewater within 300 days of the alleged violation. Other timelines are determined by the procedures that apply to the status of the accused (faculty, academic staff, university staff, or student).
- A copy of this policy and the procedures for implementing it will be distributed annually to all UW-Whitewater students, faculty, academic staff, and university staff. In addition, educational programs will be conducted regularly to sensitize members of the university community to the issues covered by this policy. This will be performed by the Quality Assurance Improvement Manager.
- Use of these procedures does not prevent the complainant from seeking legal redress. Time limits for filing complaints under the various laws differ.

## RESPONSIBILITIES

**Position/Office:** Title IX Coordinator, Dean of Students / Office of Dean of Students, Chief Human Resources Officer / Human Resources Department / University Police, Chief of Police

**Responsibilities:** The above-mentioned positions and offices have the responsibility to maintain and consistently manage the implementation of this policy.

## CONTACTS

Those designated to receive questions and feedback on the policy.

Subject	Contact	Phone	Fax/Email
Interim Chief Human Resources Officer	Connie Putland	262.472.1024	<a href="mailto:cputland@uww.edu">cputland@uww.edu</a>
Dean of Students	Elizabeth Watson	262.472.1533	<a href="mailto:watsone@uww.edu">watsone@uww.edu</a>
Title IX Coordinator	Vicki Schreiber	262.472.1024	<a href="mailto:schreibv@uww.edu">schreibv@uww.edu</a>
Chief of University Police	Matthew Kiederlen	262.472.4660	<a href="mailto:kiederlm@uww.edu">kiederlm@uww.edu</a>

## RELATED DOCUMENTS

[Regent Policy Document 14-2 - Sexual Violence and Sexual Harassment](#)

[Regent Policy Document 14-3 - Equal Opportunities in Education: Elimination of Discrimination Based on Gender](#)

[Regent Policy Document 14-5 - Measures to Alleviate Racism](#)

[Regent Policy Document 14-6 - Discrimination, Harassment, and Retaliation](#)

[Regent Policy Document 14-10 - Nondiscrimination on Basis of Disability](#)

[Section 36.12 Wisconsin Statues - Student discrimination prohibited](#)

[Faculty & Staff Personnel Rules](#)

[UW System Administrative Policy 1241: Complaint Procedures](#)

[UW system Administrative Policy 1233: Grievance and Procedures](#)

[UW System Human Resources Practice Directive EEOB](#)

[UWS Chapter 6 - Complaints and Grievances](#)

[UWS Chapter 14 - Student Academic Disciplinary Procedures](#)

[UWS Chapter 17 - Student Nonacademic Disciplinary Procedures](#)

