

# Prohibiting Harassment and Discrimination

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## Scope: Who is Covered by this Policy?

Employees, Students, Visitors and Vendors

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## Policy

### Harassment and Discrimination Are Prohibited

Respect for human diversity is an essential element of the Miami University community. Members of the Miami University community have the right to an environment free of conduct that unreasonably interferes, hinders, or otherwise denies another a suitable working, living, or learning environment. Therefore, members of the University community should refrain from harassing others or creating an environment that denies others a suitable working, living, or educational environment. Miami University strongly opposes and will not tolerate harassment or discrimination on the basis of age, color, disability, gender identity or expression, genetic information, military status, national origin, (ancestry), pregnancy, race, religion, sex/gender, status as a parent or foster parent, sexual orientation or protected veteran status in its activities, programs, admission, and employment. This prohibition extends to harassment or discrimination, based on the protected status listed above, including the creation of an intimidating, hostile, or offensive working, educational, or living environment. This Policy is intended to address all forms of prohibited harassment and discrimination except for allegations of sexual harassment, sexual misconduct, interpersonal violence (stalking, dating violence and domestic violence) which are addressed separately in the Title IX Protocol

[-Sexual Misconduct Policy and Procedures for Students](#) and [Title IX Protocol -Sexual Misconduct Policy and Procedures for Employees at Miami University.](#)

Harassment and discrimination are illegal. This policy is not intended to impair or limit the right of anyone to seek a remedy available under state or federal law. Legal remedies may be pursued outside Miami University by contacting the Equal Employment Opportunity Commission, the Ohio Civil Rights Commission, the United States Department of Education Office for Civil Rights, or by consulting an attorney at the person's own expense. Under the law, there are various time limits for filing charges outside the University. Persons should contact the agencies listed above or an attorney to determine the applicable time limits.

This policy may in some respects exceed the requirements of applicable law. However, this policy will not be enforced so as to infringe upon First Amendment rights, including the right to academic freedom.

## Definitions

For the purpose of determining whether particular conduct constitutes a violation of this policy, the following definitions will be used:

**Discrimination:** conduct that is based on a person's age, color, disability, gender identity or expression, genetic information, military status, national origin, [\(ancestry\)](#), pregnancy, race, religion, sex/[gender, status as a parent or foster parent](#), sexual orientation or protected veteran status in its activities, programs, admission, and employment that:

1. Adversely affects a term or condition of a person's employment, education, living environment or participation in a University activity; or
2. Is used as a basis for or a motivating factor in decisions affecting the person's employment, education, living environment or participation in a University activity.

Examples of conduct prohibited by this policy include but are no means limited to taking any of the actions listed below based on a person's age, color, disability, gender identity or expression, genetic information, military status, national origin, [\(ancestry\)](#), pregnancy, race, religion, sex/[gender, status as a parent or foster parent](#), sexual orientation or protected veteran status (Protected Class Status):

1. Denying a person access to an educational program;

2. Denying salary increases and/or promotions;
3. Preventing a person from participating in any activity or program or using University facilities or services; or
4. Using protected class status as a motivating factor in making a decision about employment or educational opportunities.

**Harassment:** Harassment is unwelcome conduct that is based on a persons' Protected Class Status that has the purpose age, color, disability, gender identity or effect of unreasonably interfering expression, genetic information, military status, national origin (ancestry), pregnancy, race, religion, sex/gender, status as a parent or foster parent, sexual orientation or protected veteran status.

Harassing conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with a person's work performance.

Harassment becomes a violation of this Policy when 1) enduring the offensive conduct becomes a condition of continued employment or educational experience or creates an , or 2) the conduct is sufficiently severe or pervasive enough to create a work environment that a reasonable person would consider it intimidating, hostile, offensive or abusive. For conduct to constitute harassment it must be more than offensive; it must be so severe or pervasive that it effectively denies the victim access to the University's programs or activities or unreasonably interferes with the victim's working, educational or living environment.

For conduct to constitute harassment, the conduct must be more than offensive; it must be so pervasive and/or severe that if repeated it would effectively deny the victim access to the University's programs and activities, unreasonably interfere with the victim's working, educational or living environment, or deprive the victim of some other protected right.

Examples of harassing conduct (either in person, in writing or by telecommunication) based on Protected Class Status include but are by no means limited to the following:

1. True threats – statements where the speaker means to communicate a serious expression of an intent to commit an unlawful act of violence to a particular individual or group of individuals;

~~2. Fighting words—(words directed to an individual that actually tend to provoke immediate violent reaction);~~

~~3. Obscene conduct;~~

~~4. Defamation—a false statement that harms the reputation of another; or~~

~~5. Unwanted or uninvited conduct or statements that are so objectively offensive, pervasive and/or severe to effectively deny the victim access to the resources and opportunities of the University.~~

~~The more severe the conduct the less need there is to show a repetitive series of incidents to demonstrate a hostile environment. In fact, a single severe incident, such as sexual misconduct, may be sufficient to create a hostile environment.~~

~~The University will provide, consistent with state and federal law, reasonable accommodations to persons with disabilities and reasonable accommodations for religious practices.~~

## Coverage

This policy applies to all aspects of Miami University's operations, programs and activities, including regional campuses. It applies to all University students and employees, including faculty, unclassified staff, classified non-bargaining staff, bargaining unit staff, and student employees. It also applies to all vendors, contractors, subcontractors, and others who do business with the University. It applies to all visitors or guests on campus to the extent that there is an allegation of harassment or discrimination made by them against University students or employees. This policy also applies to harassment or discrimination that occurs outside the educational program or workplace if the conduct negatively affects a person's educational or work environment.

## Information and Assistance

General information regarding this policy is available at the Office of Equity and Equal Opportunity, Hanna House, Miami University, Oxford, Ohio 45056, (513) 529-7157.

**Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act Coordinator - Section 504 and the ADA are federal laws prohibiting discrimination on the basis of disability. The University's Section 504 and ADA Coordinator is Ms. Kenya Ash, Director of the Office of Equity and Equal**

Opportunity, Hanna House, Miami University, Oxford, Ohio 45056. Ms. Ash may be reached at (513) 529-7157 or [ashkd@MiamiOH.edu](mailto:ashkd@MiamiOH.edu).

## Retaliation is Prohibited

Any retaliatory action or conduct taken by any person against a person who has sought relief under this policy is strictly prohibited and will be regarded as a separate and distinct violation of this policy. Examples of retaliatory action include assigning low grades, assigning undesirable teaching or work schedules, and/or giving deflated performance evaluations. This protection against retaliation extends to any person who opposes acts of harassment or discrimination or who testifies, assists, or participates in any manner in an investigation, proceeding, or hearing relative to harassment or discrimination.

## Action

If the University determines that reasonable cause exists to believe that a violation of this policy has occurred, the University will take action to provide appropriate additional relief. This policy provides for reliable and impartial investigation of harassment or discrimination. When harassment or discrimination does occur, the University will take appropriate steps to prevent its recurrence and remedy the discriminatory effect on the complainant (or alleged victim if different from the complainant) and others, as appropriate. The University may also initiate appropriate disciplinary action under the section of this policy titled "Disciplinary Action."

## Reporting Harassment, Discrimination, or Retaliation- Duty to Report

Any person who believes he/she has been subjected to discrimination, harassment, or retaliation may report the behavior directly to the Office of Equity and Equal Opportunity (OEEO).

All employees who become aware of alleged protected-class discrimination or harassment as defined in this policy are required to report it to the Office of Equity and Equal Opportunity. This includes administrators, supervisors, managers, faculty and staff.

Graduate assistants, resident assistants (RAs), orientation leaders (SOULS) and student managers in Campus Services are also required to report.

Exemptions:

1. Employees with a legal privilege of confidentiality under Ohio law (including doctors, licensed counselors, and their staffs) are not required to report when the information is obtained in the course of a confidential communication.
2. Researchers are not required to report if the information is disclosed by a subject during participation in an Institutional Review Board-approved human subjects research protocol (IRB Research). The University's Institutional Review Board (IRB) may, in appropriate cases, require researchers to provide such information to all student subjects of IRB Research.

**Note:** In addition to reporting discrimination and harassment, information regarding alleged retaliation as described in the section of this policy titled "Reporting Harassment, Discrimination, or Retaliation- Duty to Report" must also be reported.

OEEEO will conduct a preliminary assessment of the report. The report should **not** be made to the person who is alleged to be engaging in discrimination, harassment, or retaliation.

Anonymous reports will be accepted; however, the University's options for investigating or resolving anonymous reports may be limited because of the unique challenges presented. However, OEEEO reviews and takes appropriate action on all reports including anonymous reports.

## Advisors

Any person who reports alleged harassment, discrimination, or retaliation and any person against whom such an allegation is made may be accompanied at all stages of the process described in this policy by an advisor. Advisor means any individual who provides support, guidance, or advice to the accuser or the respondent. The role of the Advisor is only to be present; the advisor will not be provided documentation or permitted to interject during any part of a meeting. If an advisor is determined to be unreasonably interfering with the investigation, he or she may be asked to leave.

# Making a Report of Harassment, Discrimination, or Retaliation

A report may be filed at any time regardless of the length of time between the alleged occurrence and the decision to report. However, the University strongly encourages persons to report promptly in order to facilitate an effective investigation and access to information. A delay in reporting may compromise the investigation.

## Investigation of a Report

OEEO may facilitate an informal resolution of the report. An informal resolution of the report does not bar a subsequent formal resolution. The University does not use mediation to resolve reports.

Within thirty (30) calendar days of receipt of a report, OEEO will conduct an investigation to determine whether there is reasonable cause to believe that a violation of this Policy has occurred, including the extent and severity of the violation. The parties will have the opportunity to be accompanied by an advisor, to present information and respond to written reports, and to ask that witnesses be interviewed. At the completion of the investigation, OEEO will issue a written report of its investigation that includes a finding of reasonable cause or no reasonable cause and related recommendations. OEEO's findings will be based on a preponderance of the evidence. A preponderance of the evidence is the evidence that has the most convincing force; that is the greater weight of credible evidence. OEEO will consider all relevant information presented. This standard of evidence essentially asks, "Is it more likely than not that our policy was violated?"

A copy of the OEEO report will be given to both the complainant and the respondent. After the OEEO report is issued, both the complainant and the respondent are permitted to review the OEEO investigation file.

## Review

The complainant and the respondent each have the right to challenge the conclusion in the report by requesting a review by the Vice President for Institutional Diversity and Inclusion. A request for review must allege one or more of the following deficiencies in the investigative report:

That an alleged material violation of this Policy occurred that resulted in a failure to conduct a reasonably thorough investigation, in which case the matter will be remanded back to OEE0 for additional investigation;

That new evidence exists that was not available at the time of the investigation; or

The conclusion is clearly erroneous and not supported by the investigation.

Requests for review must be submitted to the Vice President for Institutional Diversity and Inclusion within five (5) class days of the issuance of the OEE0 report. (*Note: class days include exam week.*)

The request for review must be submitted in writing, stating the basis for review and with all supporting materials attached. The request for review will be shared with all parties and the OEE0 for their response, if any. Responses shall be filed within five (5) class days of the parties' and OEE0's receipt of the request for review.

The Vice President for Institutional Diversity and Inclusion will issue a written report and share it with all parties and the OEE0.

## Disciplinary Action

If there has been a finding of reasonable cause and a recommendation that the respondent be subjected to appropriate disciplinary action either in the OEE0 report or as a result of a review, the discipline, if any, to be imposed will be determined according to the procedures described in the Student Conduct Regulations, if the respondent is a student; the Ohio Civil Service Law or a collective bargaining agreement then in effect, whichever is applicable, if the respondent is a member of the classified staff; the policy "Unclassified Administrative Staff Disciplinary Procedures" if the respondent is a member of the unclassified staff; or the policy "Procedures for Disciplinary Action," if the respondent is a member of the instructional staff.

If disciplinary action is initiated, the complainant, the respondent, the person or office initiating disciplinary action, and the hearing officer/body will be entitled to full access to the OEE0 investigation file and the file, if any, of the review.

If there has been a finding that reasonable cause exists to believe that a vendor, contractor, subcontractor, visitor, guest or other person who does business with the University has violated this policy, the matter shall be referred to the Senior Vice President for Finance and Business Services for appropriate administrative action.

## Legal Options

Complaints may also be filed with the United States Department of Education Office for Civil Rights

([www2.ed.gov/about/offices/list/ocr/docs/howto.html](http://www2.ed.gov/about/offices/list/ocr/docs/howto.html)) or by consulting an attorney at the person's own expense.

## Miscellaneous

The University is committed to addressing all reports of harassment and discrimination in a prompt and equitable manner. The University uses its best efforts to complete the investigation of all reports within 30 calendar days. This timeline may be extended based upon the complexity, severity and extent of the alleged violation. The timeline may also be affected by the winter or spring break periods and summer or winter terms. This timeline does not include requests for review.

After a report of harassment or discrimination has been made, subsequent time limits specified in this policy may be extended by the Vice President for Institutional Diversity and Inclusion. Notice of the extension will be made in writing and will include the reason for the extension. Notification of extension will be made to both the complainant and the respondent.

It is a violation of this policy to knowingly make a false allegation of harassment or discrimination. However, failure to prove a claim of harassment or discrimination is not equivalent to making a false allegation. It is also a violation of this policy for a respondent or other person interviewed by OEE0 to knowingly make a false statement.

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## Related Form(s)

Not Applicable.

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## Additional Resources and Procedures

Not Applicable.

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## FAQ

Not Applicable.

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## Policy Administration

### Next Review Date

7/1/2019

### Responsible Officer

- Director of Equity and Equal Opportunity
- General Counsel

### Legal Authority

- Sections 504 of the Rehabilitation Act of 1973; and
- Americans with Disabilities Act.
- Title VII
- Title IX

### Compliance Policy

Yes

### Recent Revision History

Amended July 2018

### Reference ID(s)

- MUPIM 3.6
- OAC 3339-3-06

## Reviewing Bodies

- Miami University Senate
- Administrative

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