

Discrimination and Harassment  
Procedure to support Administrative Regulation 6:1  
August 2010

The University of Kentucky values the contribution of all students, faculty, staff and visitors in our community of learning. Discrimination and harassment creates a harmful atmosphere that denies students the right to an education and restricts employees from carrying out the University mission. The following policy and procedures are to inform every member of the University community how allegations of discrimination and harassment are handled.

I. Purpose

This policy is designed to provide a method of dealing with complaints of discrimination regarding students, employees and third parties in a prompt and equitable manner without placing an unreasonable burden on the complainant or University. It allows for an adequate, reliable and impartial investigation.

II. Policy

The University of Kentucky, in its efforts to foster an environment of respect for the dignity and worth of all members of the University community, is committed to maintaining an environment free of prohibited discrimination, which includes sexual and other forms of harassment. Discrimination and harassment are prohibited between members of the University community and shall not be tolerated.

Definitions

Discrimination: an action or behavior that results in negative or different treatment of an individual based upon race, color, ethnic origin, national origin, creed, religion, political belief, sex, sexual orientation, marital status, age, uniform service, veteran status, or physical or mental disability. Discrimination is also prohibited in employment matters based on whether an individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking.

Harassment: a form of discrimination, is unwelcome conduct that is based on the statuses noted above. Harassment becomes a violation of University policy when:

1. The offensive conduct explicitly or implicitly becomes a term or condition

of employment or participation in a University course, program or activity;  
or

2. The conduct is sufficiently severe, pervasive or persistent to interfere with an individual's work, academic or program participation, or creates an environment that a reasonable person would consider intimidating, hostile, or offensive.

Sexual Harassment: a form of sex discrimination, may or may not take place in situations of a power differential between the individuals involved. Sexual harassment includes unwelcome\* sexual advances, requests for sexual favors, or other verbal or physical behavior of a sexual nature and becomes a violation of University policy when:

- The offensive conduct explicitly or implicitly becomes a term or condition of employment or participation in a university course, program or activity;  
or
- the conduct is sufficiently severe, pervasive or persistent as to interfere with an individual's work, academic
- or program participation, or creates an environment that a reasonable person would consider intimidating, hostile or offensive.

Conduct of an amorous or sexual nature occurring in an apparently welcome relationship may be unwelcomed due to the existence of a power difference which restricts a subordinate's freedom to participate willingly in the relationship.

If one of the parties in an apparently welcome amorous or sexual relationship has the responsibility for evaluating the performance of the other person, the relationship must be reported to the dean, department chair or supervisor so that suitable arrangements can be made for an objective evaluation of the student or employee. (*Governing Regulation I.D.2(f)*)

Retaliation: Retaliation occurs when an adverse action is taken against a covered individual because he or she engaged in a protected activity, i.e. reporting discrimination or participating in an investigation of a discrimination report.

Members of the University Community: Members of the University Community are its faculty, staff, students, and volunteers, as well as customers and visitors of the University.

Every member of the University Community is prohibited from:

1. Engaging in discrimination;
2. Retaliating in any manner against any individual who reports discrimination or who participates in an investigation of discrimination report; and,
3. Making an intentionally false accusation of discrimination through the University's procedures.

Any member of the University community who engages in a prohibited act against any other member of the University community shall be subject to disciplinary action and appropriate sanctions up to and including termination or expulsion. If an individual has more than one role or status at the University, e.g. an employee also enrolled as a student, the individual's status at the time the alleged incident occurred and the capacity in which the incident occurred are used to determine the appropriate sanctions.

Conduct prohibited under this policy may include, but is not limited to the following:

#### Sexual Harassment

- Sexual or physical assault
- Unwelcome physical contact such as touching
- Direct solicitation of sexual activity
- Sex-related behavior accompanied by promise of reward or threat of punishment
- Unwelcome sexual remarks about a person's clothing or body
- Offensive sexual questions, jokes, anecdotes and stories
- Display of sexually offensive posters, pictures, words or messages
- Introduction of sexually explicit material into the classroom or workplace without an educational or work-related purpose.

#### Racial Harassment

- Offensive jokes, slurs, epithets, or name calling
- Unwelcome remarks attributing an individual's conduct, habits or lifestyles to his/her race or ethnicity
- Taunting about a person's race, color or national origin
- Exclusion because of one's race or ethnic background
- The production and distribution of hate literature

#### Other Forms of Harassment

- Physical threats
- Intimidation, ridicule or mockery
- Insulting words or slogans
- Offensive objects or pictures

- Conduct that interferes with or limits the ability to participate in or benefit from services or privileges provided by the University.

Everyone at the University of Kentucky has the right to experience an environment free from discriminating or harassing behavior. If you feel that you have experienced or witnessed this type of behavior, seek assistance within the University promptly. Allegations of discrimination and harassment should be reported to the Office of Institutional Equity and Equal Opportunity.

Other suggestions include:

- Talk to someone you trust about the problem.
- Keep a written record of dates, times, places, witnesses, discussions and specific action for each occurrence.
- Make it clear to the harasser that the behavior is offensive and will not be tolerated.

### III. Procedures

The proceedings are informal in nature. Emphasis is placed on a method of getting at the facts, assuring those facts are reported accurately to the proper authority and providing a decision based on the facts.

#### 1. Stage I Initial Report

A complaint of discrimination or harassment should be filed within 180 calendar days of the most recently alleged discriminatory, harassing or retaliatory action. This timeframe may be waived by the Office of Institutional Equity and Equal Opportunity if warranted by extenuating circumstances. A complaint of discrimination or harassment may be initiated by contacting any dean, director, faculty member, department head, manager, supervisor, or other individual with supervisory or administrative responsibility. Any such individual who receives a complaint of discrimination or harassment shall report that to the Office of Institutional Equity and Equal Opportunity. Once the Office of Institutional Equity and Equal Opportunity Office receives the complaint an investigation will begin immediately.

#### 2. Stage 2 Investigation

After reviewing the initial report departmental administrative authorities are notified so suitable arrangements can be made for interviews with the complainant, respondent and witnesses that are necessary to the investigation.

In determining whether alleged conduct constitutes harassment, the record as a whole will be considered, as well as the totality of the

circumstances. This means that the nature of the alleged conduct and the context in which the alleged conduct occurred will be examined and evaluated to determine whether the totality of the evidence created a violation of University policy.

If necessary, informal mediation may be recommended but not required for complaints to be fully processed.

All parties involved in the investigation will be informed that retaliation is prohibited against anyone making or participating in the investigation of a complaint. If retaliation is found to have occurred, that may be grounds for immediate termination or expulsion even in the absence of a finding of discrimination.

The investigation shall be completed within 90 days of filing the complaint, however, the investigation period may be extended when the person investigating believes it necessary for an equitable resolution of the situation.

### 3. Stage 3 Findings and Resolution

After all interviews are complete the information is reviewed to determine whether the Discrimination and Harassment Policy has been violated. If there has been a violation, the severity, persistence and pervasiveness of the action will influence the corrective action recommendation the Office of Institutional Equity and Equal Opportunity will recommend to the department.

Notification of the outcome of the complaint and the basis for the decision will be given to the parties involved in the investigation either orally or in writing. All parties involved in the investigation are informed that information regarding the complaint, investigation and disposition is to be kept confidential. The University will maintain the complainant's confidentiality to the extent possible within the law.

The Office of Institutional Equity and Equal Opportunity will provide assurance that the University will take steps to prevent further harassment and to correct its effects, if appropriate.

The length of the three stages of a complaint will not go beyond 180 days, however, the time required to complete the evaluation of complaint allegations will vary depending upon the severity, persistence and pervasiveness of the complaint and the nature and sufficiency of the information provided to the Office of Institutional Equity and Equal Opportunity. . Harassment and discrimination is an interruption to the work and academic environment and until there is a resolution work performance and production

may be impacted. . The Office of Institutional Equity and Equal Opportunity makes every effort to complete an investigation in a timely manner.

The University of Kentucky requests that all internal resources be exhausted before using external resources; however, at any time a complaint may be filed with the U.S. Department of Education Office of Civil Rights, Department of Labor, or Equal Employment Opportunity Commission. Once a complaint has been with made with an external agency the Office of Institutional Equity will work directly with the agency to come to a resolution.