

University Policy: Discrimination and Sexual Harassment Policy

Policy Category: Institutional Policy

Subject: Discrimination, Discriminatory Harassment, and Sexual Harassment

Office Responsible for Review of the Policy: Human Resources, Academic Affairs, Campus Life

Related University Policies: [Sexual Assault Procedures for Students](#), [Disability Grievance Procedures](#), [Student Conduct Code](#), [the WCL Honor Code](#), [Faculty Manual Professional Guidelines](#), [the Faculty Manual Grievance Procedures](#), [Faculty Disciplinary Procedures](#), [Staff Manual Complaint Policy and Procedures](#), [Staff Manual Termination Policy](#).

Related Local and Federal Laws: Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in education. Title IX of the Education Amendments of 1972 prohibits sex discrimination in education institutions. Age Discrimination Act of 1975 prohibits discrimination based on age in programs or activities that receive federal financial assistance. Title VII of the Civil Rights Act of 1964 and the DC Human Rights Act prohibit discrimination in employment in general. The Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 prohibit discrimination against individuals with disabilities. The Age Discrimination in Employment Act prohibits discrimination based on age in employment and the Equal Pay Act prohibits discrimination based on sex in the payment of wages.

I. SCOPE

This policy covers all faculty, staff, and students of American University, applicants for admission and employment as well as vendors, guests, and contractors (“AU Community”).¹ This policy applies to every aspect of the university’s operations and activities, including admissions, employment, and access to university programs, services, and facilities. The policy is intended to be consistent with the provisions of applicable local and federal laws and is not intended to provide more or less than required by law.

¹ **NOTE:** Complaints by students of unlawful disability discrimination are reviewed using the [Disability Grievance Procedures](#) outlined in the online [Student Guide](#). Complaints by students of unlawful discrimination related to the assignment of grades are reviewed using the procedures outlined in the [Academic Regulations Student Academic Grievances](#). Complaints by faculty of unlawful discrimination relating to reappointment, promotion, and tenure are reviewed using the [Faculty Manual Tenure-Line Faculty Appeal for Non-Renewal, Non-Promotion, and Tenure Denial](#). Finally, complaints alleging unlawful discrimination (including sexual harassment and sexual violence) against Washington College of Law students are reviewed using the procedures outlined in the [WCL Honor Code](#).

II. POLICY STATEMENT

Nondiscrimination and Equal Opportunity in Employment and Education

American University is an equal opportunity, affirmative action institution that operates in compliance with applicable laws and regulations. The university prohibits discrimination and discriminatory harassment (including sexual harassment and sexual violence) against any AU community member on the basis of race, color, national origin, religion, sex (including pregnancy), age, sexual orientation, disability, marital status, personal appearance, gender identity and expression, family responsibilities, political affiliation, source of income, veteran status, an individual's genetic information or any other bases under federal or local laws (collectively "Protected Bases").

Complaint Resolution

The university will respond promptly and effectively to reports of discrimination and will take appropriate action to prevent, to correct, and if necessary, to discipline individuals who violate this policy. Members of the university community who have relevant information are expected to cooperate with investigations of such misconduct.

Retaliation

The university prohibits retaliation against a member of the AU community for filing a complaint of discrimination or assisting in the filing of a complaint, or participating in the resolution of a complaint. Retaliation includes but is not limited to threats, intimidation, and/or adverse actions related to employment or education.

III. DEFINITIONS

- A. **Discrimination.** Discrimination occurs when an individual suffers an adverse employment, academic, or other decision based on an individual's protected status.
- B. **Discriminatory Harassment.** Discriminatory harassment is defined as verbal, written, visual, or physical conduct that denigrates or shows hostility against a protected class when such conduct has the purpose or effect of: 1) unreasonably interfering with an individual's work or academic performance, or 2) creating an intimidating, hostile, humiliating, or offensive working, living, or learning environment.
- C. **Sexual Harassment and Sexual Violence.** Sex discrimination covers sexual harassment including sexual violence. The determination of what constitutes sexual harassment will vary with particular circumstances, but may be described generally as: unwelcome sexual advances; requests for sexual favors; and other oral, written, or physical conduct of a sexual nature when:
- submission to or rejection of such conduct is made either explicitly or implicitly a term or a condition of education, employment, or participation in other university activities;
 - submission to or rejection of such conduct by an individual is used as the basis for evaluation in making academic or personnel decisions affecting that individual; or

- such conduct has the purpose or effect of unreasonably interfering with an individual's performance, or creating an intimidating, hostile, or offensive work or learning environment.

Sexual violence includes acts such as rape, acquaintance rape, other forms of non-consensual sexual activity; or violence or harassment based on sexual orientation. For resources available to victims of sexual violence, please refer to the [Sexual Assault Procedures for Students](#) in the [Student Conduct Code](#) or contact the [Office of the Dean of Students](#).

IV. **POLICY PROCESS**

The following roles and responsibilities and complaint resolution process is established to assist the university in ensuring an educational environment and work place free from sexual harassment, discrimination, and discriminatory harassment.

- A. Duty to Report Complaints.** AU community members who are aware of or witness sexual harassment, discrimination, or discriminatory harassment must report these matters to the appropriate Responsible Official (see below for contact information). These individuals will resolve these complaints, through informal procedures or formal investigation. AU community members are expected to cooperate in the resolution or investigation of discrimination complaints. Individuals who violate the reporting requirements will be subject to discipline/corrective action.
- B. Pastoral, Counseling, and Medical Resources for Students.** Students are encouraged to utilize the university Counseling Center, medical providers in the Student Health Center and the clergy in the Kay Spiritual Life Center as confidential resources to discuss sexual harassment or other illegal discrimination and its effects. Because of the confidentiality afforded to these relationships, however, students should know that counselors, medical providers and members of the clergy are not in a position to report the harassment to university officials or to intervene to end the discrimination. To ensure university involvement, students must report the unlawful discrimination through either the informal or formal reporting process, as detailed in this policy.

C. Responsible University Officials & Contact Information

1. Title IX Officer, Section 504 and Equal Employment Opportunity Officers.

Under Title IX of the Education Amendment of 1972 and Section 504 of the Rehabilitation Act, the university is required to designate individuals responsible for the university's compliance efforts to provide a work and learning environment free of sexual harassment, discrimination, and discriminatory harassment. These individuals are:

- Title IX Officer— Dean of Students, American University, Butler Pavilion 408B, 4400 Massachusetts Avenue, NW, Washington DC, 20016; (202)885-3300; dos@american.edu

- Deputy Title IX Officer (for WCL student matters) – WCL Dean of Student Affairs, 4801 Massachusetts Avenue, N.W., Washington DC 20016 (202) 274-4052, djaffe@wcl.american.edu
- Section 504 Officer (for student matters)² – Director of Student Conduct and Conflict Resolution Services, Butler Pavilion, American University, 4400 Massachusetts Avenue, NW, Washington DC, 20016; (202)885-3368; conduct@american.edu
- Deputy Title IX/ EEO & Section 504 Officer (for staff matters) – Executive Director for Human Resources, American University, 3201 New Mexico Avenue, Suite 350, NW Washington DC, 20016; (202)885-2591, employeerelations@american.edu
- Deputy Title IX/EEO & Section 504 Officer (for faculty matters) – Dean of Academic Affairs, American University, Leonard Hall Lower Level, 4400 Massachusetts Avenue, NW, Washington DC, 20016; (202)885-2125, deanofacademicaffairs@american.edu

The Title IX Officer is responsible for monitoring and oversight of overall implementation of Title IX compliance at the University. The Title IX Officer and the Deputy Title IX /EEO & 504 Officers or their designee (collectively “Responsible Officials”) are jointly responsible for the following:

- Investigating Title IX and other discrimination complaints.
- Coordinating, planning, and managing the discrimination, discriminatory harassment, and sexual harassment education and training programs. The programs will include wide dissemination of this policy to the university community; providing educational materials to promote compliance with the policy and familiarity with reporting procedures; and training university employees responsible for reporting or responding to reports of discrimination.
- Developing and implementing procedures to provide for prompt and effective response to reports of discrimination in accordance with this policy.
- Coordinating the maintenance of records of reports of discrimination complaints and actions taken in response to reports, including records of investigations, voluntary resolutions, and disciplinary action, as appropriate.
- Submitting an annual report to the Office of the President on discrimination complaint activity during the preceding calendar year.

2. **Sexual and Discriminatory Harassment Prevention Project Team.** A Sexual and Discriminatory Harassment Prevention Project Team has been established to assist in advising the Responsible Officials and university in addressing problems of sexual harassment campus-wide; to provide information and education on sexual harassment and related university policies and complaint procedures to members of the campus community; and to develop and review educational and informational materials regarding sexual harassment.

² The university’s [Disability Grievance Procedure](#) for students is separate from this policy and is published in the online [Student Guide](#) and on the university’s main webpage.

D. INITIATING A COMPLAINT

1. STEP ONE (Where to File/Report a Complaint and Estimated Resolution

Timelines). Notify the appropriate Responsible Official as quickly as possible of violations of this policy and within one (1) year of the alleged violation. A complaint under this Policy must be filed/reported with the office having disciplinary jurisdiction over the accused person (“Respondent”). Therefore, complaints should be reported to the following offices:

- a. **Complaints Against Students.**³ A complaint *against a student* is referred to the Dean of Students.
- b. **Complaints Against Staff, University Administrator, University Guest or Contractor.** A complaint *against a staff member, university administrator (e.g. director), vendor or guest* is referred to the Executive Director of Human Resources.
- c. **Complaints Against a Faculty Member, Faculty Administrator, or an Individual Carrying Out Teaching Responsibilities.** A complaint *against a faculty member or faculty administrator (e.g. Dean, Chair)* is referred to the Dean of Academic Affairs.
- d. **Complaints Against the President or a Member of the University’s Cabinet.** A complaint *against a member of the University President’s Cabinet* is referred to the University President (Presidents Building, 202-885-2121), and a complaint *against the University President* is referred to the Chairman of the Board of Trustees (c/o Secretary of the Board and Vice President & General Counsel, 3201 New Mexico Avenue, N.W., Suite 270, Washington, DC 20016).

Estimated Timelines. At the initial meeting with the person reporting the complaint (“Complainant”), the Responsible Official will explain the informal and formal resolution procedures that are identified below. The timelines offered in this policy are intended to assist in a prompt resolution of complaints. However, during winter breaks and summer sessions, when witnesses may not be available or disciplinary panels cannot be convened, the timelines may be adjusted to accommodate these circumstances. Nevertheless, it is the university’s intention to proceed as expeditiously as possible. The estimated timeline for informal resolution is fifteen (15) business days from receipt of informal complaint by a Responsible Official. The estimated timeline for formal resolution is thirty (30) business days from receipt of formal complaint by a Responsible Official. If a complaint is referred to a disciplinary process, the estimated timeline for completion of these procedures is thirty (30) business days from the date of the disciplinary referral. Where an estimated timeline cannot be adhered to, the Responsible Official will notify the parties and provide an anticipated completion date.

2. STEP TWO (Informal Resolution). The university encourages informal resolution when possible. Informal resolution is optional. The Complainant can end the informal process at

³ Complaints against WCL students are referred to the WCL Dean of Student Affairs to be reviewed using the procedures outlined in the WCL Honor Code.

any time and begin the formal resolution process. The university may elect to bypass the informal procedures because of the severity of the allegation or complexity of the complaint.

The goal of informal resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. Informal resolution may include inquiry into the facts, but typically does not include a formal investigation. These informal efforts may include addressing the Respondent directly; participating in a facilitated meeting with the appropriate university official; or participating in mediation. The informal resolution could include by way of example: separating the parties; referring the parties to counseling; conducting targeted educational and training programs; or providing remedies for the individual harmed by the alleged discrimination. If the matter is resolved informally to the satisfaction of all parties, the Responsible Official shall maintain a record of the complaint and its resolution. If informal resolution is not possible, the university will proceed to Step Three for formal resolution of the complaint.

3. STEP THREE (Formal Resolution). If early resolution is unsuccessful, inappropriate (e.g. when facts are in serious dispute, reports involve a pattern of behavior, or allege serious misconduct such as a sexual assault), or if the Complainant prefers a formal procedure, a formal complaint may be filed with the Responsible Official.

Reporting - A written complaint should include a detailed description of the conduct that the reporting party alleges to be discriminatory and supporting documentation (if any); name(s) and contact information of the Respondent; and the name(s) and contact information of witnesses (if any).

Investigation - Depending on the nature of the allegations, the investigation could include interviews with the Complainant, the Respondent and/or witnesses; review of written documentation and relevant policies; and any other steps necessary to thoroughly investigate the allegations. During the investigation, the Responsible Official may take appropriate interim measures to ensure safety and non retaliation for all parties. Examples of interim measures include separation of the parties, no contact directives, and alternative academic or housing arrangements. The Responsible Official will use a preponderance of the evidence standard when evaluating the allegations and formulating the outcomes of the investigation.

Resolution - At the conclusion of the investigation, the Responsible Official will notify the concerned parties of the outcome of the investigation, including referral to the appropriate disciplinary procedures.

a. Student Respondent. The student disciplinary procedure, including appeal, is outlined in the Student Conduct Code⁴. Potential student sanctions include, but

⁴ Complaints against WCL students are referred to the WCL Dean of Student Affairs to be reviewed using the procedures outlined in the WCL Honor Code.

are not limited to, a written warning, a ban from specific areas of campus, loss of specific student privileges, community service, transfer or loss of on-campus housing privileges, disciplinary probation, disciplinary suspension, or permanent dismissal. Complainants may elect to file charges through the student disciplinary procedures at any time within one (1) year of the alleged incident.

- b. **Staff Respondent.** Human Resources will take action in accordance with the [Staff Personnel Policies Manual Disciplinary Policy](#). Potential staff sanctions include, but are not limited to, verbal or written warning, mandatory counseling, mandatory training, suspension, and termination. Appeal procedures for termination are outlined in the [Staff Personnel Policies Manual Termination Section](#). Appeal of disciplinary action may be grieved through the [Staff Personnel Policies Manual Complaint Policy and Procedure](#).
- c. **Faculty Respondent.** The Provost's Office will take action in accordance with the [Faculty Manual Disciplinary Procedures](#). Potential faculty sanctions include, but are not limited to, written warning, mandatory counseling, mandatory training, suspension, and termination. Minor sanctions may be grieved through the [Faculty Manual Grievance Procedures](#). Major sanctions may be appealed through the [Faculty Manual Disciplinary Procedures](#).

V. OBLIGATION TO ELIMINATE HOSTILE ENVIRONMENT CREATED BY SEXUAL HARASSMENT AND DISCRIMINATORY HARASSMENT

The law requires the university to ensure a work and educational environment free from discriminatory harassment and sexual harassment. Thus, even when an affected individual requests that no action be taken, the university has an affirmative obligation to investigate these complaints and, where appropriate, to take affirmative remedial measures.

VI. FALSE OR FRIVOLOUS CHARGES

This policy shall not be used to bring false or frivolous charges against students, faculty, or staff. Those bringing such charges may be subject to disciplinary action.

VII. CONFIDENTIALITY

All parties engaged in the complaint process are expected to maintain confidentiality. All reports or complaints of discrimination or harassment will be kept confidential, except that individuals with a legitimate need to know will be informed of the complaint in order for the university to conduct a meaningful review of each complaint and for the purpose of determining whether the complaint is isolated, frequent, part of a pattern or practice, or pervasive.

VIII. RECORDS

Records of informal and formal complaints will be maintained by the Responsible Official who received and handled the complaint. Complaints against faculty, staff, or students that result in a personnel

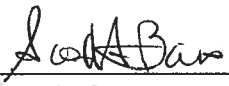
or disciplinary action will also be a part of the respondent's personnel or disciplinary record. All records are confidential with access only to individuals with a legitimate need to know. Records of complaints will be kept on file in accordance with the university's records and retention policy.

IX. EFFECTIVE DATE

This Policy was effective August 1, 2011. Replaces Faculty Sexual Harassment Policy, Student Sexual Harassment Policy, Staff EEO Policy, Staff Sexual Harassment Policy, University-Wide Discrimination and Discriminatory Harassment Policy.

X. SIGNATURE, TITLE AND DATE APPROVED

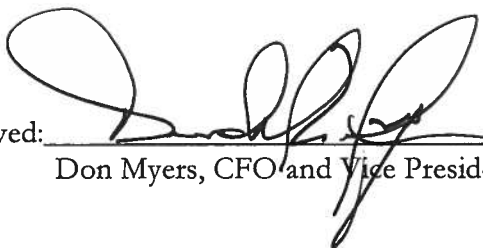
This policy needs to be signed by the appropriate office (listed below) before it is considered approved.

Approved: 
Scott A. Bass, Provost

Date: 8/15/11

Approved: 
Gail Short Hanson, Vice President, Campus Life

Date: 8/16/11

Approved: 
Don Myers, CFO and Vice President and Treasurer

Date: 8/18/11