
INTEROFFICE MEMORANDUM

TO: BOARD OF TRUSTEES OF THE UNIVERSITY OF THE DISTRICT OF COLUMBIA
DR. JAMES E. LYONS, SR., INTERIM PRESIDENT

FROM: SMRUTI RADKAR, ASSISTANT GENERAL COUNSEL 

THROUGH: D. SCOTT BARASH, GENERAL COUNSEL 

SUBJECT: REVISION TO UNIVERSITY ANTI-DISCRIMINATION AND HARASSMENT POLICY

DATE: JULY 10, 2014

The Office of the General Counsel is submitting a revised Anti-Discrimination and Harassment policy for the Board of Trustees' consideration at the Executive Committee meeting of the Board of Trustees on July 15, 2014.

The revisions to this policy reflect a number of recommendations and incorporate guidance issued by the U.S. Department of Education with respect to compliance with Title IX. In April 2011, the U.S. Department of Education's Office of Civil Rights ("OCR") issued a Dear Colleague Letter that described institutional obligations under Title IX to address sexual harassment and sexual violence against students. A number of institutions across the country began the process of reviewing and revising policies, although OCR left a number of issues unanswered. After OCR issued the Dear Colleague Letter, a number of institutions of higher education entered into resolution agreements with the U.S. Department of Education (based on investigations by OCR at those institutions) that provided additional clarification of OCR's expectations with regard to Title IX compliance. As recently as April 29, 2014, OCR issued additional guidance based on the inquiries it received as to the interpretation of its April 2011 Dear Colleague Letter.

The Office of the General Counsel has reviewed these issuances and recommendations by OCR, and submits the Anti-Discrimination and Harassment policy to the Board of Trustees for its approval. The revised policy addresses concerns by OCR and aims to provide students with a clear path for complaint reporting, investigation, resolution, and available resources for students. The policy, as revised, also incorporates best practices with regard to the University's obligations to respond to discrimination and harassment issues comprehensively raised by employees and students. The Office of the General Counsel will continue to work with University stakeholders to ensure compliance with all applicable anti-discrimination and harassment statutes and regulations at the Federal and District levels.

Should there be any further questions or concerns, please contact the Office of the General Counsel.

Donald L. Rickford
Chief Financial Officer

FISCAL IMPACT STATEMENT

TO: The Board of Trustees
FROM: Office of the Chief Financial Officer (UDC) 
DATE: May 22, 2014
SUBJECT: Anti-Discrimination & Harassment Policy Revision

Conclusion

It is concluded that there is no fiscal impact to adopt the proposed revisions to the University's Anti-Discrimination & Harassment policies.

Background

The University of the District of Columbia strives to provide an educational and working environment for all faculty, staff and students that is free from all forms of discrimination and harassment, including sexual harassment, and is committed to providing an environment that treasures diversity and emphasizes the dignity and worth of every individual and an environment in which every individual is treated with respect the University's Anti-Discrimination and Harassment Policy was last reviewed and updated in April 2011.

The U.S. Department of Education has issued guidance and recommendations since the last review of the University Anti-Discrimination and Harassment Policy by the Board of Trustees; and the Anti-Discrimination and Harassment Policy as revised incorporates the guidance and recommendations issued by the U.S. Department of Education, as well as best practices for such policies.

Financial Impact

The funding requirement associated with making the required changes to the Anti-Discrimination & Harassment policies appears to be negligible and appears to have no tangible foreseen fiscal impact. As such, the Executive Management within the Budget Department of the Office of the Chief Financial Officer of UDC has approved this request based on the information provided. We do not anticipate any risks as this time.

**BOARD OF TRUSTEES
UNIVERSITY OF THE DISTRICT OF COLUMBIA
UDC RESOLUTION NO 2014-_____**

SUBJECT: University Anti-Discrimination and Harassment Policy- Revision

WHEREAS, the District of Columbia law (D.C. Official Code § 1201.01(a) provides for the Board of Trustees of the University of the District of Columbia to adopt, prescribe, amend, repeal, and enforce such bylaws, rules, and regulations as it may deem necessary for the governance and administration of the University; and

WHEREAS, the University of the District of Columbia strives to provide an educational and working environment for all faculty, staff and students that is free from all forms of discrimination and harassment, including sexual harassment, and is committed to providing an environment that treasures diversity and emphasizes the dignity and worth of every individual and an environment in which every individual is treated with respect; and

WHEREAS, the University Anti-Discrimination and Harassment Policy was last reviewed and updated in April 2011; and

WHEREAS, the U.S. Department of Education has issued guidance and recommendations since the last review of the University Anti-Discrimination and Harassment Policy by the Board of Trustees; and

WHEREAS, the University Anti-Discrimination and Harassment Policy as revised incorporates the guidance and recommendations issued by the U.S. Department of Education, as well as best practices for such policies;

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Trustees hereby adopts the University Anti-Discrimination and Harassment Policy attached and incorporated hereto.

Approved by the Executive Committee:

July 15, 2014

Ratified by the Board of Trustees:

Date

Elaine Crider
Chairperson of the Board

Anti-Discrimination and Harassment Policy	Effective Date: July 15, 2014
Related Policies and Procedures:	

I. Policy Statement

The University of the District of Columbia strives to provide an educational and working environment for all faculty, staff and students that is free from all forms of discrimination and harassment, including sexual harassment. It is committed to providing an environment that treasures diversity and emphasizes the dignity and worth of every individual, an environment in which every individual is treated with respect. Discrimination and harassment in any form are contrary to these goals and fundamentally at odds with the values of the University. Discrimination and harassment are violations of University policy and will not be tolerated. Individuals who engage in such conduct may be subject to disciplinary action.

This policy is designed to do the following:

- Reaffirm the University's commitment to providing a positive environment for study and work free from discrimination and harassment;
- Provide notice to all members of the University community and visitors of what kind of conduct is expected and what kind of conduct is proscribed;
- Inform victims of discrimination or harassment (including sexual harassment), sexual assault, and sexual violence, of their options and rights;
- Inform all members of the University community about the procedures available at the University for addressing, investigating, and resolving discrimination and harassment complaints, including sexual harassment complaints;
- Protect the rights and confidentiality of all parties and witnesses to discrimination and harassment complaints to the fullest extent possible;
- Prevent retaliation against persons alleging discrimination or sexual or other unlawful harassment or against witnesses and individuals cooperating in an investigation.

II. Prohibited Conduct

A. Discrimination

It is the policy of the University to prohibit discrimination of members of the University community on the basis of actual or perceived race, color, religion, national origin, sex, age, disability, sexual orientation, gender identity or expression, family responsibilities, pregnancy, matriculation, political affiliation, marital status, personal appearance, genetic information, familial status, source of income, place of residence or business, or status as

a covered veteran, as provided for and to the extent required by the District of Columbia and Federal statutes and regulations.

B. Harassment

Similarly, this policy prohibits unwelcome and offensive acts or communications that are sufficiently serious to deny or limit an individual's terms of conditions of employment or ability to participate in any aspect of the University's program, directed to individuals or groups because of actual or perceived race, color, religion, national origin, sex, age, disability, sexual orientation, gender identity or expression, pregnancy, family responsibilities, matriculation, political affiliation, marital status, personal appearance, genetic information, familial status, source of income, place of residence or business, or status as a covered veteran (hereinafter referred to collectively as "protected classes"), as provided for and to the extent required by the District of Columbia and Federal statutes and regulations.

Examples of impermissible conduct include, but are not limited to, the following:

- The use of physical force or violence to restrict the freedom or movement of another person or to endanger the health and safety of another person based on that person's actual or perceived membership in a protected class;
- Physical or verbal behavior that involves an express or implied threat to interfere or has the reasonably foreseeable effect of interfering with an individual's personal safety, academic efforts, employment, or participation in University-sponsored extracurricular activities because of that individual's actual or perceived membership in a protected class, and which causes that individual to have a reasonable apprehension that harm is about to occur;
- Any type of conduct based on an individual's actual or perceived membership in a protected class, that has the effect of unreasonably interfering with that individual's work or academic performance or otherwise creates an intimidating, hostile or offensive working or learning environment. Such an environment exists when the conduct is sufficiently serious to deny or limit a student's ability to participate in any aspect of a University program;
- Epithets, slurs or derogatory comments based on a person's actual or perceived membership in a protected class that are sufficiently serious to deny or limit an individual's terms of conditions of employment or ability to participate in any aspect of the University's program.

The foregoing must be interpreted in light of one of the fundamental purposes of a University education, which is to teach students to think, write and express themselves critically. Instruction in critical thinking very well may involve making statements or presenting materials that are felt by individuals to be offensive or embarrassing. When a student believes statements or materials cause offense or embarrassment but do not constitute harassment as defined in this policy, students should deal directly with the faculty member involved, the department chair or the Dean of the applicable school or

college to explore relevant perspectives. See Part III below regarding Academic Freedom.

This policy is not intended to address normal differences of opinion that arise but are not based on a person's actual or perceived membership in a protected class. In the case of students, those matters may be addressed through the appropriate faculty or staff member. Faculty or staff with concerns regarding such differences of opinion not based on actual or perceived membership in a protected class, are to address them with their respective supervisor.

C. Sexual Harassment

For the same reasons listed above, it is the policy of the University that all faculty, staff, including student-employees, and students work and learn in an environment free from sex and gender discrimination, sexual harassment and sexual assault/sexual violence.

1. Definition

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or written communication, or physical conduct of a sexual nature, when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;
- b. Submission to or rejection of such conduct by an individual is used as the basis for an individual's academic or employment decisions or evaluations; or
- c. Such conduct has the effect of unreasonably interfering with an individual's work performance or learning or of otherwise creating an intimidating, hostile, or offensive environment. Such an environment exists when the conduct is sufficiently serious to deny or limit an individual's ability to participate in any aspect of a University program;

This definition applies to both the employment and student academic environment contexts, including relationships between staff and students, academic decisions regarding students, relationships between students, and the general environment in which students function.

Sexual harassment may be committed by individuals of either gender against individuals of the same or different gender. Although sexual harassment often exploits a relationship between individuals of unequal power (e.g., between faculty/ staff member and student, or a supervisor and employee/faculty member), it may also occur between individuals of equal power (e.g., between fellow students or co-workers), or in some circumstances even where it appears that the harasser has less power than the individual harassed (e.g., a student sexually harassing a staff/faculty member). Third parties, such as visitors, to the campus can also commit sexual harassment against students, staff or faculty.

2. Examples of Sexual Harassment

Sexual harassment can take many different forms. The determination of what constitutes sexual harassment in violation of University policy will vary according to the particular circumstances.

Conditioning an employment or academic decision regarding an individual on submission to sexual advances will always constitute sexual harassment in violation of University policy. Some specific, isolated conduct in and of itself may constitute sexual harassment in violation of University policy. Such conduct may include, for example, conditioning an employment related action (such as hiring, promotion, salary increase, performance appraisal, or refraining from discipline or termination) on a sexual favor or relationship or conditioning an academic related action (such as a grade, assignment, or refraining from discipline) on a sexual favor or relationship.

Other conduct violates University policy where it creates an intimidating, offensive, or hostile environment, i.e., where it is sufficiently serious to deny or limit an individual's terms of conditions of employment or ability to participate in any aspect of the University's program. Examples of sexual harassment that may create an intimidating offensive or hostile environment include, but are not limited to, the following situations:

- Unwelcome sexual propositions, invitations, solicitations, and flirtations; leering;
- Unwelcome and inappropriate touching, patting, fondling, pinching, or obscene gestures;
- Unwelcome verbal expressions of a sexual nature, including: graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendos; unwelcome suggestive or insulting sounds or whistles; or obscene telephone calls;
- Sexually suggestive objects, pictures, videotapes, audio recordings or literature, or computerized transmissions placed in a work or study area that may embarrass or offend individuals, subject to general principles of academic freedom discussed in Section III below;
- Sexual assault, coerced sexual intercourse or other forced sexual contact; or
- Any combination of the above conduct, which is sufficiently serious to deny or limit an individual's work or academic environment.

III. Academic Freedom

The Board of Trustees of the University has accepted and endorsed a definition of academic freedom which includes basic rights and responsibilities to teach and discuss topics pertinent to understanding the subject matter of the course being taught; to conduct

research and publish the results; and to speak or act in the capacity of a citizen without institutional censorship or discipline. Conduct claimed to constitute discrimination or harassment must be interpreted in light of the principle of academic freedom so as to protect a faculty member's rights to teach, research and publish freely. The principle of academic freedom also applies to a student's right to express himself or herself freely. The University does not intend that this policy will be used to address the typical differences of opinion that may arise in the academic setting and are part of the normal process of teaching and learning.

IV. Consensual Relationships

Consensual relationships may create conflicts of interest and/or appearances of impropriety that impair the integrity of academic or employment decisions. These relationships also have the potential to exploit a subordinate employee or student; to create professional or academic disadvantage of other parties; and to expose the University and/or involved individuals to the risk of liability.¹

The University strongly discourages consensual relationships between faculty or staff members and students or between supervisors and subordinates. This is particularly so with regard to students who are currently enrolled in a class taught by a faculty member or who are currently employed by a faculty or staff member in any capacity, where the question of consent is complicated by the difference in power that exists between faculty or staff and students in such circumstances. Similarly, an implicit imbalance of power exists between supervisory personnel and staff, which also raises the issue of consent.

The University expects its faculty, staff (including student-employees), supervisors, and administrators to act in a fair, impartial manner when making decisions, avoiding every appearance of impropriety or favoritism that might arise from consensual relationships.

V. Duties of Members of the University Community

A. All Associated with the University

Each member of the University community plays a significant role in ensuring that the University is free from all forms of discrimination and harassment, and that any incidents of discrimination or harassment are promptly reported.

If a member of the University community believes he or she has been subjected to discriminatory or harassing conduct, that individual is advised to report the matter to the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator:

Brian Ramsay
Office of Human Resources
Administration Building (39), 2nd Floor
4200 Connecticut Ave., NW, Washington DC

¹ The University acknowledges this excerpt is from the Consensual Relations policy at the University of Texas at Austin.

202-274-5442
brian.ramsay@udc.edu

Alternatively, an individual may report the incident to any Vice President or Dean. Those individuals are required to report any alleged incidents of discrimination or harassment to the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator as promptly as possible. Such an individual will be given information regarding how to file a formal complaint pursuant to Section IX.A or IX.B, as applicable. The University may also choose to pursue an investigation regarding an incident without a formal complaint, and even against the wishes of an individual making a report, pursuant to Section IX.C.

The University cannot take action to punish and deter discrimination and harassment if it is not aware that it has occurred. Similarly, the University may not be able to investigate anonymous complaints unless sufficient information is provided to enable the University to conduct a meaningful investigation.

B. Supervisory Employees

It is the responsibility of supervisors, chairs, deans, department heads, and other managers to:

- Immediately notify the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator when they receive reports or complaints of discrimination or harassment;
- Immediately notify the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator when they witness or otherwise become aware of incidents of discrimination or harassment; and
- Implement any interim measures (if applicable) and/or corrective actions imposed as a result of findings of discrimination or harassment.

Any employee or student-employee in a supervisory or managerial capacity who has knowledge of incidents of discrimination or harassment, including sexual harassment, who does not report the matter to the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator may be subject to disciplinary action up to and including discharge from employment from the University.

C. Faculty, Staff and Students

Any faculty member, staff employee, student-employee, or student who believes he/she is the victim of discrimination or harassment should promptly report the incident to and confer with the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator, or other designated University employees (see Part V, Sections A and B) in accordance with the processes described in Part IX, Sections A and B, as applicable. Any faculty member, staff employee, or student-employee who witnesses discrimination or harassment or who receives a report of discrimination or harassment should refer the victim to the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator, and should also promptly

report the incident to the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator, or other designated University employees as described in Part V, Sections A and B.

VI. Prohibition on Retaliation

Any action taken by the University, any employee or agent of the University, or a student to restrain, interfere, coerce or otherwise adversely affect an individual's employment, personal safety, academic efforts or participation in University-sponsored activities as a result of that person's allegation of discrimination or harassment or cooperation in an investigation or adjudication regarding such an allegation is strictly prohibited. Retaliation may be found even where the underlying complaint was not sustained.

No faculty member, administrator or staff (including student-employees), applicant for employment, or student may be subject to retaliation for action taken in good faith to seek advice concerning a discrimination or harassment matter; to file a discrimination or harassment complaint; or to serve as a witness in the investigation of a discrimination or harassment complaint.

It shall not be retaliation, however, for an accused to defend himself/herself against a charge of discrimination or harassment under this policy. Nor shall it be considered retaliation to discipline an individual for false and malicious accusations as set forth in Part IX, Section E (see below).

Retaliation, if established, may result in disciplinary action against the offending party up to and including discharge from employment or dismissal/expulsion from the University, as applicable.

VII. Confidentiality

It is to be expected that, at all stages of any proceedings under this policy, confidentiality will be maintained to the greatest extent possible. Consistent with their obligations, all roles described herein are expected to maintain the highest standards of confidentiality. Communication by these persons with others with regard to discrimination and harassment complaints can be only on a required "need to know" basis.

Others necessarily involved, such as the complainant, the respondent, witnesses, and University staff involved in the investigation will be provided the standards of confidentiality and encouraged to keep confidential, to the greatest extent possible, matters about which they or others provide testimony or information. With regard to such individuals, however, the University has no means by which to ensure strict confidentiality other than by providing notice of the standards of confidentiality by which the University expects all individuals involved to abide.

VIII. Dealing with Discrimination or Harassment

In addition to reporting an alleged incident of discrimination or harassment, any individual who believes himself or herself to be the victim of harassment in violation of

this policy may consider, at his or her option, taking one or more of the procedural steps described below, as applicable.

A. Self-Help

An initial course of action for any faculty, staff (including student employees), or student who feels that he or she has been harassed or discriminated against may be for that person to emphatically tell or otherwise inform the discriminator or harasser that the conduct is unwelcome, offensive, may violate this policy, and must stop. This may solve the problem, and, if it does, further proceedings may not be necessary. This option is most appropriate when the alleged conduct is not of a severe or pervasive nature.

B. Counseling

A student who believes himself or herself to be a victim of discrimination or harassment may contact one of the Counselors in the Division for Student Affairs for advice and counseling at any time. You may visit the website at: http://www.udc.edu/csdc/counseling_and_student_development_center

Employees who feel discriminated against or harassed may wish to speak with a representative of the University's Employee Assistance Provider (EAP, COPE, Inc.) for free counseling or for online services provided 24 hours visit <http://www.cope-inc.com/dc-eap/index.shtml>.

IX. Filing a Discrimination or Harassment Complaint

A student or employee who believes that he or she has been subjected to discrimination or harassment and wishes to file a formal complaint must use the procedures set forth below. This allows the University and the individual to work together in an effort to obtain a resolution to allegations of discrimination or harassment.

The individual who believes that he or she has been the victim of discrimination or harassment will be identified as the "complainant" and the alleged offender will be identified as the "respondent."

A. University Complaint Procedure for Employees

1. Reporting Complaints

If an individual who believes that he or she has been the victim of discrimination or harassment in employment decides that he or she wishes to file a complaint, the person must notify the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator that he/she wishes to initiate the formal complaint procedure. An employee may file a complaint with an EEO Counselor at another District agency if so desired.

2. Required Information

A complaint must be in writing and shall include the relevant name(s), date(s), and time(s), a detailed description of the allegations of discrimination or harassment, the type of discrimination or harassment being raised, the names of any witnesses to the discrimination or harassment, requested corrective action or remedies and any other relevant information on which the complaint is based. The complainant must sign the complaint and be willing to have their identity disclosed to the respondent, if necessary.

3. Filing Timelines

a. Complaints Not Dealing with Sexual Harassment

The complaint must be filed with the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator no later than one hundred eighty (180) calendar days after the alleged incident. The University will complete its investigation within thirty (30) calendar days after first being consulted by the complainant, subject to the extension period referenced in Sections IX.A.4 and IX.A.6. The complaint may be filed externally with the D.C. Office of Human Rights within fifteen (15) calendar days after an exit interview with the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator, subject to the extension period referenced in Sections IX.A.4 and IX.A.6.

b. Complaints Dealing with Sexual Harassment

Sexual harassment complaints by employees adhere to the same procedure as stated in Part IX, Section A. The timelines for such complaints, however, are different. A complainant may file a sexual harassment complaint with the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator or directly with D.C. Office of Human Rights within one year of the alleged incident. If the complaint is filed with the University, it shall have sixty (60) calendar days to resolve the complaint before it is referred to the D.C. Office of Human Rights at <http://ohr.dc.gov/complaint>.

4. Investigation of Complaints

Except with regard to complaints of sexual harassment, as discussed in Section IX.A.3.b. above, the University Complaint Procedure shall be concluded within thirty (30) calendar days from the date of complainant's filing with the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator, in so far as is practicable. If additional time is needed to conduct the exit interview beyond thirty (30) calendar days, the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator may extend the thirty (30) calendar day time period for an additional thirty (30) calendar days (the "extension period") and will so advise the parties, in writing.

During the course of the University Complaint Procedure, it shall be the responsibility of the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator to discuss with the complainant the options available under this procedure.

The EO Officer/Title IX Coordinator/Section 504-ADA Coordinator will conduct the investigations of all sexual harassment (including sexual assault/sexual violence) and

discrimination complaints regarding employment related issues. During the investigation, the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator will:

- i. Formally apprise the respondent of the charge of discrimination or harassment, in writing.
- ii. Elicit from the respondent an explanation of what occurred from his/her perspective.
- iii. Arrange for interim relief for the complainant, if appropriate.
- iv. Provide both parties with the opportunity to provide information and identify witnesses.
- v. Investigate the allegations by conducting interviews or gathering other relevant information.
- vi. Attempt in a non-legalistic, non-threatening manner to facilitate a solution acceptable to both the complainant and the respondent.

5. Resolution of Complaints

The EO Officer/Title IX Coordinator/Section 504-ADA Coordinator evaluates allegations and evidence to determine if it is more likely than not that the alleged conduct in the complaint occurred. The findings of the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator are memorialized in a written report.

At the conclusion of any investigation, the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator shall conduct an exit interview with the parties and issue exit letters notifying the parties of the outcome.

If the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator believes that there is sufficient evidence to support a violation of this policy, the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator will submit a written report of the investigation and recommendations to the Vice President for Human Resources (or designee) for disciplinary action and relief for the complainant, as appropriate after the conclusion of the investigation. The Vice President for Human Resources (or designee) will subsequently administer disciplinary sanctions and relief for the complainant (as appropriate) in consultation with the responsible Vice President.

If the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator believes there is not sufficient evidence to support a violation of this policy, the complainant and respondent will be so advised in writing.

As stated above in Section IX.A.4., the investigation shall be completed within thirty (30) calendar days; if additional time is necessary, the parties will be notified, in writing, of the reasons for the delay, the length of the delay, and kept informed of its status.

A confidential, written summary of the investigation and the actions taken under this complaint procedure will be prepared by the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator for the University's use and, together with any other documentation, maintained in an "EO" file in the Office of Human Resources for at least seven (7) years in accordance with the University's record retention policy and applicable law.

6. Filing with External Agencies

Upon receipt of the exit letter, the complainant may, if he/she is unhappy with the outcome, file a formal complaint with the D.C. Office of Human Rights (<http://ohr.dc.gov/complaint>) within fifteen (15) calendar days after the exit interview with the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator. A respondent does not have the option to move a charge of harassment to the D.C. Office of Human Rights, pursuant to DC law.

During the extension period described in Section IX.A.4., the complainant may demand an exit letter at any time, and the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator shall provide an exit letter upon such a demand. In addition, during the extension period, the complainant may file a formal complaint with the D.C. Office of Human Rights, notwithstanding whether the exit letter has been demanded or issued. If there is an extension period, a formal complaint to the D.C. Office of Human Rights shall be filed by the complainant during the extension period or within fifteen (15) calendar days after the exit interview is conducted, whichever is earlier. Formal complaints filed beyond this time period shall be deemed untimely filed and dismissed as such by the D.C. Office of Human Rights.

The University encourages faculty and staff (including student-employees) to utilize the internal complaint process prior to filing an external complaint. However, staff and faculty may file with the U.S. Equal Employment Opportunity Commission (EEOC) (www.eeoc.gov) or, for disability complaints, the U.S. Department of Education, Office for Civil Rights (OCR) (www.ed.gov/ocr). Faculty and staff may file with the EEOC or OCR. The EEOC and OCR have their own filing timeframes which may be found on their respective websites, but generally are within 180 days of the alleged act of discrimination.

B. University Complaint Procedure for Students

1. Reporting Complaints

A student who believes herself/himself to be the victim of discrimination or harassment should report the incident to the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator. Students may also report allegations to a professor, department chair, Dean, supervisor, or Vice President. If a professor, department chair, Dean, supervisor, or Vice President observes or learns of the allegation of discrimination or harassment, he or she is obligated to report the matter to the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator immediately. If the complaint is based on the actions of the EO Officer/Title

IX Coordinator/Section 504-ADA Coordinator, it should be directed to the Vice President for Human Resources.

2. Required Information

A complaint must be in writing and shall include the relevant name(s), date(s), and time(s), a detailed description of the allegations of discrimination or harassment, the type of discrimination or harassment alleged occurred, the names of any witnesses to the discrimination or harassment, requested corrective action and any other relevant information on which the complaint is based. In order for there to be a complete investigation, the complainant must sign the complaint and be willing to have his or her identity disclosed to the respondent, if necessary.

3. Filing Timelines

A complaint of discrimination or harassment in educational programs or activities must be filed with the University within one hundred and eighty (180) calendar days following the date the alleged discrimination or harassment took place.

4. Investigation of Complaints

The EO Officer/Title IX Coordinator/Section 504-ADA Coordinator will investigate the allegations brought by the complainant and work to conclude the investigation and conduct the exit interviews within sixty (60) calendar days, depending on the allegations presented. During the investigation, the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator will:

- i. Formally apprise the respondent of the charge of discrimination or harassment, in writing.
- ii. Elicit from the respondent an explanation of what occurred from his/her perspective.
- iii. Arrange for interim relief for the complainant, if appropriate.
- iv. Provide both parties with the opportunity to provide information and identify witnesses.
- v. Investigate the allegations by conducting interviews or gathering other relevant information.
- vi. Attempt in a non-legalistic, non-threatening manner to facilitate a solution acceptable to both the complainant and the respondent.

5. Resolution of Complaints

The EO Officer/Title IX Coordinator/Section 504-ADA Coordinator evaluates allegations and evidence to determine if, based on the totality of the circumstances, it is more likely than not that the alleged conduct in the complaint occurred. The findings of the EO

Officer/Title IX Coordinator/Section 504-ADA Coordinator are memorialized in a written report.

At the conclusion of the investigation, the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator shall conduct an exit interview with the parties and issue exit letters notifying the parties of the outcome.

If a violation of University policy is found, the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator shall notify the respondent of the corrective action to be taken and notify the complainant of the findings and that appropriate corrective action has been or will be taken. The notification to the complainant will include all relief to be provided to the complainant. Relief may include: counseling, stay away orders, class and/or grade changes, and/or reimbursement for tuition. Where the respondent is an employee, it will also include a statement that disciplinary action is being taken against the respondent in accordance with University policy; where the respondent is a student, it will include any disciplinary action that is directly related to the complainant.

If a violation of University policy is not found, the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator shall notify the complainant and respondent of the findings in writing.

As stated above in Section IX.B.4., the investigation shall be completed within sixty (60) calendar days; if additional time is necessary, the parties will be notified, in writing, of the reasons for the delay, the length of the delay, and kept informed of its status.

A confidential, written summary of the investigation and the actions taken under this complaint procedure will be prepared by the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator for the University's use and, together with any other documentation, maintained in an "EO" file in the Office of Human Resources for at least seven (7) years in accordance with the University's record retention policy and applicable law.

6. Filing with External Agencies

Students who believe that they have been subjected to discrimination and/or harassment may be able to file a complaint with Federal and/or District government agencies, e.g., the D.C. Office of Human Rights or the U.S. Department of Education's Office for Civil Rights. The University encourages students to utilize the internal complaint process prior to filing an external complaint.

C. University Investigations

Very often, an individual who believes himself or herself to be the victim of discrimination or harassment in violation of this policy may be reluctant to pursue the remedies provided in this section. Similarly, the Office of Human Resources may become aware of an alleged incident of discrimination or harassment even though the alleged victim has not reported it. Incidents of discrimination and harassment that go unaddressed pose legal risks for the University and can threaten the well-being of the University

community. The Office of Human Resources reserves the right to conduct its own investigations into reported incidents of discrimination or harassment and take appropriate measures even in the case of an alleged victim who is unwilling to report or pursue the matter.

If the complainant is not willing to have his or her identity disclosed to the respondent, the University will evaluate the request for confidentiality in the context of its responsibility to provide a safe and nondiscriminatory environment for all students, staff, and faculty. Evaluation factors include: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual; the ability of the University to fully and fairly respond to the complaint in some fashion without disclosing the complainant's identity (see next paragraph); and the alleged harasser's rights to receive information about the allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99.

If the University cannot take disciplinary action against the alleged harasser because the complainant insists on confidentiality, the University will pursue other steps to limit the effects of the alleged harassment and prevent its recurrence. A complainant's unwillingness to disclose his or her identity does not relieve the University of its responsibility to take reasonable steps to ensure a safe and nondiscriminatory environment for all students, staff, and faculty.

D. Disciplinary Sanctions

Disciplinary actions for discriminatory or harassing behavior may include one or more of the following:

- Sanctions as stipulated in the Code of Student Conduct, as applicable;
- Requirement to attend training or other education;
- Requirement to obtain counseling;
- Work restrictions;
- An oral or written warning (or letter of concern);
- A written reprimand;
- Suspension; and/or
- Dismissal/expulsion.

Disciplinary sanctions and process will be implemented consistent with any applicable collective bargaining agreement.

E. Malicious and False Accusations

If allegations of discrimination or harassment are determined by the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator to be both false and brought with malicious intent, the matter will be sent to the Vice President for Human Resources (or designee) with a report and a written recommendation. The complainant may be subject to the disciplinary sanctions set forth in Part IX, Section D, as determined by either the Office

of Human Resources (employees) or the Office of Student Affairs (students), as applicable.

X. Documentation

Documentation can be informal handwritten notes taken by the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator or another member of the University community while speaking with an individual. Documentation may also consist of: testimonial evidence provided during an investigation; documentary evidence submitted or obtained during an investigation; a type-written after-the-fact recounting of a process or its results; an explanation prepared for the record as to why the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator or member of the University community took a particular step or reached a particular decision with regard to a discrimination or harassment complaint; and/or all correspondence with the parties or other members of the University community during an investigation, including statements by witnesses to the alleged incident and any other relevant information. Documentation can be handwritten, voice transcribed, typewritten, or in any printed or electronic form.

The amount of documentation which is reasonable and prudent with regard to any of the processes outlined in this policy is left to the judgment of the Office of Human Resources and the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator. The Office for Human Resources shall from time to time prescribe forms or required documents for the processes established by this policy, as it deems necessary.

All documentation required to be maintained by the Office of Human Resources shall be available only to that Department, any other person conducting an investigation under Part IX of this procedure, the University's legal counsel, or other duly authorized District or Federal agency.

XI. Duties of the Office of Human Resources

The Office of Human Resources will implement the Anti-Discrimination and Harassment Policy and shall:

1. Publicize this policy and any updates on a periodic basis;
2. Conduct any training considered advisable with regard to this policy or issues under this policy;
3. Act on discrimination or harassment complaints directed to or which otherwise come to the attention of the EO Officer/Title IX Coordinator/Section 504-ADA Coordinator;
4. Inform the University community about University counseling services to assist persons who believe themselves victims of discrimination or harassment;
5. Implement any corrective actions to be taken under this policy;

6. Act as an advisor to the President with regard to this policy and perform such other duties as may be assigned by the President in connection therewith;
7. Act as an advisor to the University community with regard to issues of discrimination and harassment; and
8. Maintain the records required to be kept under this policy.

XII. Publications

The following Equal Opportunity statement should be used in all University brochures and advertisements:

The University of the District of Columbia is an Equal Opportunity Affirmative Action institution. The University prohibits discrimination or harassment against any person on the basis of the actual or perceived race, color, religion, national origin, sex, age, disability, sexual orientation, gender identity or expression, family responsibilities, matriculation, political affiliation, marital status, personal appearance, genetic information, familial status, source of income, place of residence or business, or status as a covered veteran, as provided for and to the extent required by District and Federal statutes and regulations. This policy covers all programs, services, policies, and procedures of the University, including admission to educational programs and employment. The University emphasizes the recruitment of minorities, women, disabled individuals, disabled veterans, Vietnam era veterans, and other eligible veterans.

The following short version of the Equal Opportunity statement can be used in place of the longer version in all small brochures and advertisements:

The University of the District of Columbia is an Equal Opportunity/Affirmative Action institution. Minorities, women, veterans and persons with disabilities are encouraged to apply.

If space in the advertisement is extremely limited, the words “Equal Opportunity/Affirmative Action” may be replaced with “EEO/AA” as follows:

The University of the District of Columbia is an EEO/AA institution.

This policy is written in accordance with Federal and District laws and regulations, which are subject to amendment. To the extent this policy becomes inconsistent with such amendments, the applicable provision of Federal or District law shall supersede this policy.

HISTORY/REVISION DATES

Last Amended Date: July 10, 2014

April 27, 2011

Next Review Date: