

Overview of Changes to the Affirmative Action, Equal Employment Opportunity & Non- Discrimination/Harassment Policy

The proposed interim revised policy:

- Modifies the purpose statement, adding, “To maintain a university environment free from discrimination and harassment...” (p. 1)
- Adds ethnicity to the list of protected classes. Ethnicity is covered by applicable law, and this addition is for reader awareness. (p. 1)
- Clarifies that the policy also applies to *program participants*, *suppliers/contractors*, and *visitors*, which aligns with the Sexual Misconduct policy. The word *employment* was added to *applicants* to clarify that this term refers only to employment applicants and not student applicants. These changes are reflected in the definition of *University Community*. (p.1)
- Defines *education program or activity* to be consistent with the Sexual Misconduct policy (adheres to the Final Title IX Rule). (Definitions, p.2)
- Defines *retaliation* to be consistent with the Sexual Misconduct policy (adheres to the Final Title IX Rule). Previously, the policy referred readers to the Whistleblower policy, and now the definition of retaliation and related processes are included in this policy. (Definitions, p. 3)
- Clarifies that for Affirmative Action purposes, “good faith efforts for employment outreach” include ensuring job descriptions and postings are nondiscriminatory; sharing opportunities with community groups; and utilizing consistent criteria. (Policy Details I.B, p. 4)
- Clarifies Equal Employment Opportunity requires all employment practices including, but not limited to, recruitment, selection, promotion, compensation, and all other management decisions provide equal opportunities for all individuals. (Policy Details II.A, p. 4)
- Broadens that applicants will be considered without regard to the entire list of protected classes (was previously only nine of the categories). (Policy Details II.C, p. 4)
- Adds a duty to report to OIE for any human resource professional who becomes aware of potential discrimination or harassment. This better aligns our policy with the requirements of Title VII and expectation to remedy a situation. (Policy Details IV.B, p. 6)
- Adds a formal complaint process, which requires a signature by the complainant or an OIE director to initiate an investigation. This is to be consistent with the Sexual Misconduct policy (adheres to the Final Title IX Rule). *OIE formal complaints* are defined, and a formal complaint is separate from a report. The reporting process remains. (Definitions, p. 2)
- Notes that nothing in this policy detracts from any legal right of a parent or guardian to act on behalf of a complainant, respondent, or other individual, subject to FERPA, including but not limited to filing a formal complaint. (Policy Details III.B.4, p. 5)

- Changes the term *interim measure* to *supportive measures*. The spirit remains the same, but a definition was added to be consistent with the Sexual Misconduct policy (adheres to the Final Title IX Rule). (Definitions, p. 4)
- Amends the jurisdiction to match the OIE formal complaint jurisdiction in the Sexual Misconduct policy for consistency. An OIE formal complaint maintains the jurisdiction the university has had under this policy, which includes off-campus conduct when applicable and in university programs outside of the United States (e.g. study abroad). (Policy Details III.B, p. 5)
- Clarifies the university will maintain confidential any supportive measures provided and the identity of any individual who has made a report, except in accordance with applicable law. (Policy Details V, p. 6)
- Adds an emergency removal process, as to be consistent with the Sexual Misconduct policy (adheres to the Final Title IX Rule). This clarifies a process for removing a respondent from an education program or activity. The respondent must present an immediate threat to the physical health or safety of a student or other individual to justify removal. This does not preclude the university from taking action as allowable by the Code of Student Conduct or other university rule or policy. (Policy Details VII, p. 7)
- Provides clarification on when informal resolution may be pursued and what steps the university will take when informal resolution is being pursued. So as to be consistent with the Sexual Misconduct policy (adheres to the Final Title IX Rule), the policy clarifies that informal resolutions include instances where the respondent accepts responsibility. (Policy Details VIII.B, p. 8)
- Allows for other resolutions, such as educational conversations or informal coaching without an investigative resolution or informal resolution. (Policy Details VIII.C, p. 8)
- Clarifies and expands what the parties have an equitable right to during an investigative resolution. Many of the rights have been in place, but it is clearer and includes language to be consistent with the Sexual Misconduct policy (adheres to the Final Title IX Rule). An example is that a party has the right to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. (Policy Details VIII.D, pp. 8-9)
- Notes that some remedies may be the same as a *supportive measure*, however, remedies can be disciplinary or punitive and need not avoid burdening the respondent. (Policy Details IX.B, p. 9)
- Makes clearer that the university may place a hold on a student's account or place a notation on a student's transcript while any investigation or proceeding conducted pursuant to this policy is pending. (Policy Details XIV, p. 10)
- Formalizes that OIE may issue a directive when necessary to effectuate the policy. (Policy Details XV, p. 10)
- Codifies that OIE will provide rights and options to all complaints; this has been happening in practice. (Procedure I.B, p. 11)
- Requires a written notice to be sent to all known parties in a formal complaint and include very specific information, such as alleged conduct; date and location, if known; a statement that the respondent is presumed not responsible until the conclusion of a grievance process; a statement that no one should knowingly

make false statements or submit false information; and notice that the parties have the right to an advisor of their choice. (Procedure II.A, p. 11)

- Formalizes the process for dismissing a formal complaint, consolidating formal complaints, and investigating reports that may violate other university policies in addition to this policy. (Procedure II.B-D, pp. 11-12)
- Clarifies what the university will do throughout a formal investigative resolution process, such as providing notice of meetings and proceedings, an equal opportunity to inspect and review evidence (ten business days to submit a written response), and an investigative report summarizing the relevant evidence at least ten business days prior to a hearing. (Procedure III, p. 12)
- Continues to require a hearing for all OIE formal complaints involving student respondents. A hearing requires cross-examination (Procedure IV, p. 13). OIE formal complaints not involving students (i.e. employee cases) will continue with the process similar to what they undergo now. (Procedure V, p. 13)
- Requires a written determination for all formal complaints. For OIE formal complaints, the sanctions and remedies may be issued at a subsequent time. (Procedure VI, pp. 13-14)
- Provides an appeal for all formal complaint resolutions, including for students, faculty, and staff, so long as it meets one of the four bases for appeal (procedural irregularity, new evidence, conflict of interest, or inappropriate sanction). (Procedure VII, p. 14)
- Links to the appropriate OIE websites for support and medical resources (removed the charts to ensure the most up-to-date information is readily available). (Resources, p. 15)