

Discrimination, Discriminatory Harassment and Retaliation (GEN 1.2.(4).)

The University of Wisconsin Oshkosh

Policy # [####]

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## POLICY STATEMENT

### (1) Statement of Policy and Commitment.

The University of Wisconsin Oshkosh subscribes to the policy of the Board of Regents of the University of Wisconsin System that discrimination, discriminatory harassment and retaliation toward students, employees, officials, and guests at the University of Wisconsin Oshkosh will not be tolerated.

(a) Discrimination, discriminatory harassment, discriminatory attitudes, and expressions that reflect discrimination are inconsistent with the efforts of the University of Wisconsin Oshkosh to foster an environment of respect for the dignity and worth of all members of the University community and to eliminate all manifestations of discrimination within the University.

(b) Toward this end, the University of Wisconsin Oshkosh, is therefore committed to the elimination of discrimination and harassment.

(c) Faculty, academic staff, university staff, students, student organizations, academic departments, colleges, governance organizations, and other University offices, are encouraged to undertake educational programs and other efforts consistent with this policy.

(d) Because the protected status categories applicable to the educational setting are different than the employment setting, Regent Policy Document 14-6 separates the categories accordingly. In the educational setting, a student may not be discriminated against on the basis of race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, disability, age, pregnancy, marital or parental status, or any other category protected by law. This policy protects students from discrimination, discriminatory harassment and retaliation in admission and enrollment, educational environment, course work, student services, programs, activities and facilities.

In the employment setting, an employee may not be discriminated against on the basis of race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, disability, age, pregnancy, marital or parental status, genetic information, arrest record, conviction record, military service, veteran status, use or nonuse of lawful products off the employer's premises during nonworking hours, declining to attend a meeting or participate in any communication about religious matters or political matters, or any other category protected by law. This policy protects employees from discrimination, discriminatory harassment, and retaliation in employment-related actions such as recruitment, interviewing, testing, screening, selection, placement, classification, evaluation, transfer, promotion, training, compensation, fringe benefits, layoffs and/or dismissal.

### (2) Definitions.

Discrimination is a conduct that adversely affects any aspect of an individual's employment, education, or participation in an institution's activities or programs, or has the effect of denying equal privileges or treatment to an individual on the basis of one or more characteristics of that individual's protected status or category as defined herein.

Discriminatory harassment<sup>[1]</sup> is a form of discrimination consisting of unwelcome verbal, written, graphic or physical conduct that:

1. Is directed at an individual or group of individuals on the basis of the individual or groups of individuals' actual or perceived protected status, or affiliation or association with person(s) within a protected status (as defined herein above); and
2. Is sufficiently severe or pervasive so as to interfere with an individual's employment, education or academic

2. Is sufficiently severe or pervasive so as to interfere with an individual's employment, education or academic environment or participation in institution programs or activities and creates a working, learning, program or activity environment that a reasonable person would find intimidating, offensive or hostile.

To constitute prohibited harassment, the conduct must be both objectively and subjectively harassing in nature. Harassment may include but is not limited to verbal or physical attacks, threats, slurs or derogatory or offensive comments that meet the definition set forth herein. Harassment does not have to be targeted at a particular individual in order to create a harassing environment, nor must the conduct result in a tangible injury to be considered a violation of this policy. Whether the alleged conduct constitutes prohibited harassment depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs and the status of the individuals involved.

### (3) Review of Complaints and Allegations.

Complaints and allegations of violations of this policy shall be reviewed in accordance with the following requirements.

(a) All complaints and allegations of conduct that may be in violation of this policy must be reviewed in light of all of the relevant facts and circumstances, with due consideration being given to the essential rights to academic freedom, equality, fairness, and freedom of speech, association and expression.

(b) Even though an individual may exercise poor personal judgment or otherwise act in a manner inconsistent with the intent of this policy, not every offensive, repugnant, or inappropriate act or incident constitutes discrimination or harassment that is prohibited under this policy. Whether a specific incident constitutes harassment under this policy will be decided on a case-by-case basis in accordance with the appropriate policy and procedures.

(c) Complainants must file a complaint with the institution within 300 days of the alleged violation.

(d) Harassment of, threats to or defamation of others; creation of a hostile environment; stalking; and/or illegal discrimination is not an acceptable use of information technology resources and is prohibited.

### (4) Procedures

(a) Informal Complaint Procedure. Informal complaints or expressions of concern about possible conduct in violation of this policy (or questions concerning the scope or application of this policy) may be addressed to the University's Director of Equity and Affirmative Action. The Director of Equity and Affirmative Action may work with other offices (e.g., the Chancellor, Provost and Vice Chancellor, Dean of Students, employee assistance, etc.) to informally review these matters and reach a resolution acceptable and satisfactory to all concerned parties.

(b) Formal Complaint Procedure. Formal complaints pertaining to conduct that may violate this policy may be pursued consistent with other University rules and procedures, as noted below:

1. Complaints against Students. Formal complaints concerning the conduct or expression of students may be presented to the Dean of Students Office in accordance with UWS 17. Under this policy students have right to appeal of the chancellor's or dean's decision to the Board of Regents, as permitted under s. 36.12(2)(b), Wis. Stats. The manner and timeline in which complaints will be received, investigated, and resolved can be found in the Student Nonacademic Disciplinary Procedures UWS 17.

2. Complaints against Faculty. Formal complaints concerning the conduct or expression of members of the faculty may be presented to the Chancellor under the complaint procedures set forth in the faculty personnel rules that were developed consistent with section UWS 4 and UWS 6. The manner and timeline in which complaints will be received, investigated, and resolved can be found in FAC 9.C.1, FAC 9.C.2, and FAC 9.C.3

3. Complaints against Academic Staff. Formal complaints concerning the conduct or expression of members of the academic staff may be presented to the Chancellor under the complaint procedures set forth in the academic staff personnel rules that were developed consistent with section UWS 11 and UWS 13. The manner and timeline in which complaints will be received, investigated, and resolved can be found in ACS 16.1, ACS 16.2, ACS 16.3, and may fall under ACS 17.0 and ACS 17.1 if dismissal for cause is determined.

4. Complaints against University Staff. Formal complaints concerning the conduct or expression of members of the university staff may be presented to the University's Director of Human Resources consistent with the terms and conditions of state laws and campus policies. The manner and timeline in which complaints will be received, investigated, and resolved can be found in the University Staff Complaints Policy.

5. Complaints against Limited Term Appointments (chancellor, vice chancellor, dean or director). Formal complaints concerning the conduct or expression of administrators that serve in limited term appointments may be presented to the President of the System. The manner and timeline in which complaints will be received, investigated, and resolved is at the discretion of the Chancellor.

#### (5) Retaliation.

Retaliation is also a violation of this policy. Retaliation is defined as adverse action taken against an individual in response to, motivated by or in connection with an individual's complaint of discrimination or discriminatory harassment, participation in an investigation of such complaint and/or opposition of discrimination or discriminatory harassment in the educational or workplace setting.

Explanatory Notes: This policy was written in accordance with Regent Policy Document 14-6. The policy incorporates standards of conduct and other conditions required under the scope and substance of the System policy. Given the conditions and circumstances under which this policy was written, it is noted here that this policy does not include all of the divergent policies and views of the governance groups that reviewed and approved this statement.

[1] Sexual Harassment is addressed in a separate institution policy.

#### REVISION HISTORY

Provost's Administrative Staff: Approved November 11, 2014

Faculty Senate: Approved December 9, 2014

Senate of Academic Staff: Approved December 11, 2014

University Staff Council: Approved January 14, 2015

Chancellor: Approved August 12, 2015

Revised per System Audit: May 1, 2022 and September 1, 2022