

Discrimination and Harassment Policy

ORIGINATING OFFICE

Office of Social Equity

PURPOSE

Discriminatory conduct is not consistent with the University's commitments to excellence and educational diversity. The University aims to create an environment free of discrimination.

SCOPE

This policy applies to all members of the University community, including employees (administrators, faculty, and staff), volunteers, students, vendors and all applicants for admission or employment. When the respondent is a student, the matter may be referred to the University's Office of Student Conduct, as appropriate.

OBJECTIVE

This policy sets clear expectations for an environment free of discrimination, defines discrimination, and provides procedures for handling allegations of discrimination. This complaint procedure incorporates by reference, and where applicable, constitutes the grievance procedures for complaints alleging unlawful discrimination under Title IX of the Education Amendments of 1972; Sections 503 and 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; Titles VI and VII of the Civil Rights Act of 1964; Title VI of the Civil Rights Act of 1968; The Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967; the Age Discrimination Act of 1975; and the Pennsylvania Human Relations Act. As used herein, "complaint" is synonymous with "grievance."

POLICY STATEMENT

Discrimination based on age, color, national origin, race, religion, disability, veteran's status, sex, sexual orientation or gender identity is prohibited.

All employees, students, and those outside of the University who work in or with the University, including vendors and volunteers, must comply with applicable federal, state, and local laws as well as government regulations regarding discrimination.

Acts of discrimination, harassment or retaliation will not be tolerated, and alleged violations of this policy will be investigated following the steps detailed in the policy. Violators of this policy will be disciplined consistent with this policy and applicable labor agreements. Discipline may include but is not limited to a warning, transfer, suspension, termination, or expulsion from the University.

Complaints of sexual harassment or sexual violence, including sexual assault, dating violence, domestic violence and stalking are processed under the University's Sexual Harassment and Sexual Violence policy and related procedures. For more information about the University's Title IX program, please refer to the University's Social Equity website at: <http://www.iup.edu/socialequity/policies/title-ix/default.aspx>.

DEFINITIONS

Discrimination: An adverse employment or academic action or decision that is based on or motivated by an individual's membership in a protected class that is sufficiently severe, persistent or pervasive so as to substantially limit or interfere with an individual's work environment, educational performance, participation in extra-curricular activities or equal access to the University's resources and opportunities.

Harassment: Any conduct directed toward an individual based on membership in a protected class that is sufficiently severe, persistent or pervasive so as to substantially limit or interfere with an individual's work environment, educational performance, participation in extra-curricular activities or equal access to the University's resources and opportunities. Harassment is a form of discrimination. Constitutionally protected expression cannot be considered harassment under this policy.

Complainant: The individual who is alleging the occurrence of discrimination.

Respondent: The individual against whom allegations of discrimination, harassment or retaliation have been made.

RETALIATION PROHIBITED

Retaliation is a form of discrimination. The University prohibits retaliation against any party who, in good faith, reports, assists or participates in an investigation under this policy.

Retaliation, if found to have occurred, is considered an offense separate from the original complaint of discrimination or harassment. The University will take disciplinary action against those who participate in retaliatory behavior. Individuals who believe they have been subjected to retaliation should report the conduct to the Office of Social Equity as promptly as possible.

COMPLAINT PROCESS FOR ALLEGATIONS AGAINST STUDENTS

The procedures for processing a discrimination, harassment or retaliation complaint against a student (student to student or allegations in which the alleged offender is a student) are addressed through a formal student conduct proceeding, which is described in and governed by the Student Conduct Policies and Regulations. For more information, please refer to the Office of Student Conduct website on policies: <http://www.iup.edu/studentconduct/policies/>.

To make a complaint against a student who is alleged to have engaged in discrimination, harassment or retaliation and to discuss options, contact the Office of Student Conduct, Ruddock

Hall, Suite G11, 724-357-1264. If the individual does not want to proceed with a conduct complaint or police report against a student alleged to have violated this policy, the University's Office of Social Equity may still investigate, but may be limited in its ability to do so.

COMPLAINT PROCESS FOR ALLEGATIONS AGAINST EMPLOYEES, VENDORS AND VOLUNTEERS

Any member of the University community who believes he or she may have experienced discrimination, harassment or retaliation in violation of this policy by an employee, vendor or volunteer may use either the informal resolution process or the formal complaint process, or both. The informal resolution and formal complaint processes described in this policy are not mutually exclusive and neither is required as a pre-condition for choosing the other; however, both processes cannot be used at the same time. Complainants are encouraged to file written complaints. Anonymous complaints will be individually assessed for credibility and investigated to the extent possible.

A. **Informal Resolution:** This process may be used as a prelude to filing a formal complaint or as an alternative. It is not necessary that this option be used. Anyone who believes that he or she has been subject to discrimination, harassment or retaliation may immediately file a formal complaint as described below. Informal resolution may be an appropriate choice when the conduct involved is not of a serious or repetitive nature, and disciplinary action is not required to remedy the situation. No formal investigation is involved in the informal resolution process. Informal resolution requires the mutual consent of both the complainant and the respondent and either party has the right to withdraw from the informal process. If the Office of Social Equity or designee determines there is a need for a formal investigation, the University may initiate the formal process. A complaint that cannot be substantiated or resolved through the informal resolution process will be documented as such. At the conclusion of the informal resolution process, all records from the informal resolution process will be retained by the Office of Social Equity or designee in accordance with the University's records retention policy.

1. **Reporting:** Individuals wishing to use the informal resolution process should contact the Office of Social Equity. If individuals in the Office of Social Equity or the designee appointed by the Office of Social Equity are part of the alleged discrimination, harassment or retaliation, the Associate Vice President for Human Resources should be contacted instead as the designee.

2. **Assistance:** The individual is provided assistance in attempting to resolve possible discrimination if the individual does not wish to file a formal complaint. Such assistance includes strategies for the individual to effectively inform the offending party that his or her behavior is offensive and should cease. Action should be taken by an appropriate University official to stop the offensive conduct, modify the situation in which the offensive conduct occurred, or begin mediation between the parties. However, the University may take more formal action to ensure an environment free of discrimination. If the complainant is not satisfied with the outcome of the mediation, the complainant may choose to file a formal complaint with the University or an external public agency responsible for enforcing laws regarding discrimination.

3. Timeframe: The Office of Social Equity or designee shall make a good faith effort, with the complainant's written consent, to resolve the complaint in a timely manner consistent with the complexity and severity of the matter. Any resolution efforts extending beyond fifteen (15) working days shall be noted.

B. Formal Complaint: The goal of the formal complaint process is to reach an official determination as to whether a respondent(s) has violated this policy. As a part of the formal complaint process, an adequate, reliable and impartial investigation will be conducted into the allegations of the complaint and a report of the investigation prepared. The University reserves the right to continue an investigation if the complainant withdraws or disavows the allegations, if it is warranted. In a case where the University decides to continue with an investigation, it will inform the complainant.

1. Reporting: Complaints must be made to the University's Office of Social Equity. If individuals in the Office of Social Equity or the designee appointed by the Office of Society Equity are part of the alleged discrimination, harassment or retaliation, the Associate Vice President for Human Resources should be contacted instead. The complaint should include the complainant's name and contact information; the name of the person(s) directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and, any documents or information that is relevant to the complaint. While an investigation may begin on the basis of an oral complaint, the complainant is strongly encouraged to file a written complaint. Complaints should be filed as soon as possible after the conduct giving rise to the complaint, but no later than thirty (30) working days after the event occurred. This deadline may be extended by the designated investigator based on extenuating circumstances.

2. Notice of Allegation: As part of the investigation process, the respondent shall be provided with a copy or summary of the allegations and be given the opportunity to respond verbally and/or in writing within a reasonable time frame. The response should include the names of any witnesses or other evidence the respondent may wish to have considered.

3. Investigation: The fact-finding process is intended to be an internal investigation, not an adjudicatory process. The strict rules of evidence and criminal or civil procedure do not apply. The complainant and the respondent may present any document or information that is believed to be relevant to the complaint. Any persons thought to have information relevant to the complaint shall be interviewed and such interviews shall be appropriately documented. The respondent and the complainant are permitted to have present an advisor in accordance with the applicable Board of Governors' policy. Allegations or matters of conduct outside the scope of this policy may be referred to the appropriate official for review and action.

4. Timing: Within ten (10) working days of receipt of a complaint, an investigation of the complaint will be undertaken. The investigation of a complaint will be concluded as soon as possible after receipt of the complaint, consistent with the complexity and severity of the matter. For investigations exceeding sixty (60) days, a justification for the delay shall be included in the written report.

5. **Written Report:** Upon completion of the investigation, a written report will be issued. The report shall include: a statement of the findings of fact, including an analysis of the facts discovered during the investigation; a statement of conclusions the investigator has drawn, if any; and any other relevant information deemed appropriate to the findings of fact. Both the complainant and the respondent shall be provided an opportunity to review a summary of the written report and submit comments.

6. **Review:** The President or designee, as appropriate, will review the summary of the written report, the written report and any comments submitted by the complainant or respondent. The President or designee may request further investigation; dismiss the complaint if the results of the completed investigation are inconclusive or there is insufficient evidence, based on a preponderance of the evidence, to support the allegation(s); or find this policy was violated. The President or designee will determine what appropriate action, if any, will be taken. A pre-disciplinary conference will be held prior to issuing any discipline, consistent with the disciplinary procedures proscribed in any applicable labor agreement. The University shall take steps to prevent the recurrence of discrimination, harassment or retaliation under this policy and to correct any discriminatory effects on the complainant and others, if appropriate.

7. **Notice of Outcome:** Once the President or designee has rendered a decision and notified the respondent in writing, the formal investigator shall, to the extent permitted by applicable law including the Family Educational Rights and Privacy Act, notify the complainant, in writing, of the results of the investigation and the action taken by the University to resolve the complaint. At the conclusion of the formal investigation, all records from the formal resolution process will be retained by the Office of Social Equity or designee in accordance with the University's records retention policy. Records of investigations will not be maintained in personnel files unless formal disciplinary action is taken.

C. **Appeal and Reporting to Outside Entities:** The respondent may appeal any discipline rendered as provided in the grievance procedures of his or her respective labor agreement or the Board of Governors' Merit Principles Policy (Policy 1983-01-A), as applicable. The complainant has the option at any time during informal resolution or formal complaint process to file a complaint through an external public agency responsible for enforcing laws regarding discrimination. Generally this filing should take place within 180 days beginning with the date of the last alleged incident.

Equal Employment Opportunity Commission
www.eeoc.gov
1000 Liberty Avenue
Pittsburgh, PA 15222
(412) 644-3444

Pennsylvania Human Relations Commission
www.phrc.state.pa.us
300 Liberty Ave., State Office Bldg., 11th Floor
Pittsburgh, PA 15222
(412) 565-5395

U.S. Department of Education, Office for Civil Rights
www.ed.gov/about/offices/list/ocr/index.html
400 Maryland Avenue
Washington D.C. 20202-5151
(800) 421-3481

D. Privacy: The University will endeavor to honor an individual's desire for privacy, to the extent permitted by law, which still allows the University to provide an environment free of discrimination. Relevant information will be provided to those persons who need to know in order to achieve a timely resolution of the complaint.

E. False Complaints: Any person who knowingly and intentionally files a false complaint under this policy or any person who knowingly and intentionally makes false statements within the course of the investigation is subject to disciplinary action up to and including termination of employment or expulsion from the University. Employees will be referred to the Office of Human Resources. Students will be referred to the Office of Student Conduct.

F. Dissemination of Policy: The policy will be posted on the University's website and copies will be made available to all members of the University community, including employees (administrators, faculty, and staff), volunteers, students, vendors and all applicants for admission or employment upon request. Periodic notices will be sent to employees and students which will include referral information and information about the complaint procedures. The University will periodically educate and train employees and supervisors regarding the policy and conduct that could constitute a violation of the policy.

The policy was approved on and last modified September 23, 2016. Questions about the policy should be directed to the Office of Social Equity, Delaney Hall, Room B17, 724-357-3402, <http://www.iup.edu/socialequity/>

The University's Compliance Officer and Title IX Coordinator is:

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Office of Social Equity
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724-357-3402
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The University's ADA/Section 504 Coordinator is:

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