



OFFICIAL POLICY

POLICY NAME: Harassment
SECTION: HR – Workplace Practices
APPROVED: April 2011
APPROVED BY: *William C. Rickle, SJ*
William C. Rickle, SJ (Oct 7, 2016)

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1.0 PURPOSE

Wheeling Jesuit University is dedicated to fostering the dignity of each person and is committed to providing an environment and workplace that is free from all forms of harassment and discrimination against applicants and employees based upon any legally-recognized basis.

2.0 POLICY

2.1 Policy Statement

2.1.1 Prohibited Harassment

Wheeling Jesuit will not tolerate any form of harassment, intimidation, ridicule, or insult based upon the following protected classes:

- Sex
- Gender
- Sexual Orientation
- Race
- Color
- Religion
- National Origin
- Ancestry
- Age (40 and above)
- Disability
- Familial Status
- Protected Activity
- Genetic Information
- Veteran Status
- Uniformed Service Member Status

2.1.2 A report of sexual misconduct will be immediately sent to the Title IX Coordinator to determine if it is a Title IX violation. While a report of sexual harassment may not be a Title IX violation, it may nonetheless be a violation of University policy and will be investigated as such by the Human Resource Department.

2.2 Definitions

2.2.1 “Harassment” may take many forms, including verbal (epithets, derogatory comments, or slurs), written, graphic (derogatory posters, photography, cartoons, drawings, or gestures), or physical conduct (assault, unwanted touching, or blocking normal movement) based upon the protected classes noted in 2.1.1 where such conduct is:

- Sufficiently severe, persistent or pervasive that it affects an individual’s ability to perform his / her job functions and/or academic pursuits or creates an intimidating, threatening or abusive work / academic, or extracurricular environment; or
- Has the purpose or effect of substantially or unreasonably interfering with an individual’s work, academic, or extracurricular performance; or
- Otherwise adversely affects an individual’s employment, academic or extracurricular opportunities; or
- Causes disruption to the University community.

2.2.2 “Sexual harassment” is unwanted conduct of a sexual nature and may include unwelcome sexual advances, requests for sexual favors, unwanted physical contact, sexual assault, sexual misconduct, visual displays of degrading sexual images, sexually suggestive conduct, offensive remarks of a sexual nature, derogatory remarks directed toward a person because of his / her sex and other inappropriate conduct of a sexual nature where:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, instruction, or participation in an activity at the University; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions or in making academic or educational decisions affecting an individual, such as evaluation or advancement decisions; or
- Such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with an individual’s work performance, academic performance, living conditions, extracurricular participation or otherwise has the purpose or effect of creating an intimidating, hostile or offensive environment or causes disruption to the University community.

- 2.2.3 “Consensual Relationships” include dating and sexual relationships willingly undertaken by both parties and is based on “consent”.
- 2.2.4 “Protected Activity” is defined as opposing a practice made unlawful by one of the employment discrimination statutes or filing a charge, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under the applicable statute.
- 2.2.5 “Sex discrimination” is any action that adversely affects the employment or educational opportunities of a person due to his or her sex. This includes discrimination on the basis of pregnancy, in sports, in scholarship programs and in decisions or actions at all operational levels on campus. Sex discrimination also encompasses harassment of an individual on the basis of sex.
- 2.2.6 “Sexual misconduct” is any act, including acts between members of the same sex, of sexual harassment, sexual violence, sexual assault, non-consensual sexual contact, non-consensual sexual intercourse, sexual exploitation, stalking, intimidation, dating violence, or domestic violence, or any act that creates a hostile environment or any act of retaliation against a complainant or anyone involved in a grievance procedure under this policy.
- 2.2.7 “Sexual violence” refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.
- 2.2.8 “Sexual assault” is an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting program.

2.3 Coordination with Title IX

All incidents of sexual misconduct will be reported to the Title IX Coordinator for review. The definitions under Title IX, while mirrored here, are more extensive and in all cases Title IX will prevail. Any report by a student that involves an employee will be reported through Title IX first and coordinated between the Title IX Coordinator and Human Resources; similarly, any report by an employee to Human Resources will be shared with the Title IX coordinator.

2.4 Coverage

This policy applies to all individuals employed by the University in any capacity including: non-supervisory personnel, supervisors, managers, directors, and all senior level employees; contractors, consultants, vendors, clients, or temporary employees; others providing services to the University; and visitors to the campus, as well as faculty. The coverage area includes the campus itself as well as any place where a University employee works or performs work activities as well as sponsored activities and events both on and off campus, and all satellite work sites.

2.5 Consensual Relationships

- 2.5.1 The respect and trust students accord professors, coaches, mentors, club moderators or other employees of the university in a similar capacity, as well as the power exercised by a University employee in an academic or evaluative role, renders such voluntary consent suspect in light of the power differential that exists. Therefore, sexual and romantic relationships between employees and students are prohibited by the University and can result in discipline of the employee according to the corrective action policy, up to and including dismissal of the employee.
- 2.5.2 The University realizes that situations may arise where consensual relationships develop between consenting employees. Because of the potential for conflicts of interest, exploitation, favoritism and bias, the University prohibits this type of relationship between a supervisor and a subordinate. The individual in the position of greater authority bears the primary burden of accountability and must ensure that he / she does not exercise any supervisory or evaluative functions over the other person in the relationship. When a romantic or sexual relationship exists between a supervisor and a subordinate, the University reserves the right to take appropriate action, in its discretion, to protect the interests of the University, which may include transfer, alternative supervisory or evaluative arrangements or dismissal of both parties. Should the university seek to employ the spouse of a current employee, the two cannot work within the same department and cannot be in a reporting relationship to each other.

2.6 Reporting Responsibility

- 2.6.1 Any employee who feels that he / she is being harassed should first inform the offending party that the conduct or behavior is unwelcome and / or unappreciated and, second, that the behavior must stop. The employee should note the date the individual was so informed and any subsequent instances. If the harassing behavior is severe or

pervasive or takes any form of sexual assault or violence, the employee should report the harassment immediately to Human Resources or the Title IX Coordinator to secure personal safety.

- 2.6.2 If the harassing behavior continues unabated, employees should promptly report the matter to the Human Resource Department. The individual receiving the report will ensure that it reaches the appropriate individual at the Director or Executive level within the respective department / office for prompt investigation.
- 2.6.3 Allegations of sexual violence or assault should be reported immediately to Human Resource or the Title IX Coordinator. The University is primarily concerned with the safety of individual employees; consequently, any incidents of sexual violence that may be connected with violations of other University policies (Ex: Drug and Alcohol Policy) will be addressed separately from the alleged violent act since such violations are never an acceptable excuse to commit an alleged violent act. Instances of sexual violence that result in bodily injury or battery should also be reported immediately to campus security and, subsequently, to local law enforcement.
- 2.6.4 Per the requirements of Title IX and state law, all employees (with limited exception) are mandated reporters and must report incidents of sexual misconduct. Before hearing a complaint from a student or employee the listening employee must inform them that he/she is a mandated reporter and must report the conversation; they should also provide the individual with the name and title of an employee who is not a mandated reporter if the student or employee so desires.

2.7 Complaint Procedure / Investigation

- 2.7.1 It is the University's policy to investigate complaints regardless of whether they conform to a particular format or are made in writing. Employees are strongly encouraged to report harassment or discriminatory conduct to the Title IX Coordinator or the Human Resource Department; employees should contact either the Title IX Coordinator or the Human Resource Department with questions about this process.
- 2.7.2 Employees who wish to file a complaint should access the Harassment Reporting form (located on the HR Website) to assist in prompt, timely, investigations. Individuals may elect to complete the Harassment Reporting form themselves or report the harassment directly to the Human Resource Department or the Title IX Coordinator in a face-to-face meeting.
- 2.7.3 The information noted on the Harassment Reporting Form should be completed by the individual or in conjunction with a representative of the Human Resource Department in a face-to-face meeting, specifying the names of both the individual filing the complaint (Complainant) and individual alleged to have engaged in harassing behavior (Respondent). This information is necessary to initiate an investigation.
- 2.7.4 The Director of Human Resources will document, record and evaluate all employee complaints and, if necessary, immediately initiate a formal and impartial investigation. All complaints will be simultaneously reported to the Title IX Coordinator. While complete confidentiality can never be guaranteed, the University will endeavor to protect confidentiality to the extent possible. Information and records will be treated as "Private / Confidential" per the Information Protection policy. If the complaint is ultimately investigated as a Title IX Complaint, the Complainant and the Respondent will not be brought together and Title IX Policy and investigative procedures will take precedent. In all other instances, the University will endeavor to avoid bringing the two parties together.
- 2.7.5 Investigations of alleged employee harassment will commence within fifteen (15) days of the date of the complaint per existing University policies and procedures.
- 2.7.6 The University will pursue interim measures during the investigation to protect the complainant.
- 2.7.7 If it is determined that harassment has occurred, the University will take immediate and appropriate corrective action. Both the Complainant and the Respondent will be advised in writing of the findings of the investigation and their rights to appeal such findings.

2.8 Findings

The University will endeavor to conclude investigation within sixty (60) days of report date with one of the following:

- 2.8.1 No determination of harassment or misconduct can be made; or
- 2.8.2 The Respondent engaged in harassment or other prohibited discriminatory conduct. Should the findings be closed as noted above, the University will:
 - Undertake corrective actions including possible suspension or termination of the Respondent.
 - Undertake remedial or protective actions with the Complainant deemed necessary to make the Complainant whole or protect the Complainant from the Respondent.

2.9 Retaliation

The University will not tolerate any adverse treatment of or retaliatory actions against any individual who, in good faith, reports harassment or violence, provides information related to complaints of harassment or violence, or provides information in conjunction with an investigation of harassment, violence or other discriminatory behavior.

2.10 False or Malicious Allegations

Any individual who knowingly makes false reports, allegations or accusations of harassment or violence recklessly, in bad faith or with malicious intent will be subject to disciplinary action, up to and including possible termination for employees.

2.11 External Reporting

Unlawful harassment is prohibited by state and federal law. In addition to the internal resources described above, individuals may pursue complaints directly with the government agencies that deal with unlawful harassment and discrimination claims, e.g., the US Equal Opportunity Commission (EEOC), the Office for Civil Rights (OCR) of the US Department of Education, the West Virginia Human Rights Commission and the Virginia Human Rights Council. Contact information for these agencies and information about the time frames for filing external charges are readily available in the internet. A violation of this policy may exist even where the conduct in question does not violate the law. Acts of sexual violence may be criminal in nature and individuals may pursue complaints with local law enforcement in addition to the internal resources described above. Pending the results of an internal investigation, and assuming the alleged sexual violence has not been reported to local law enforcement, the University retains the right to notify local law enforcement of its findings.

2.12 This Harassment policy is not intended to prevent employees from discussing the terms and conditions of employment with co-workers or discussing union organizing or other protected, concerted activities with co-workers in the workplace provided, however, that such discussion is consistent with the intent of this policy regarding harassment, protected information (HIPAA) on other employees absent their consent, and the University policy on Solicitation.

3.0 AUTHORIZATION

The Director of Human Resources, in conjunction with the Title IX Coordinator, the President or designee, has the authority to change or modify this policy at any time, with or without notice, to maintain compliance with regulatory changes and mandates.

4.0 ATTACHMENTS

Harassment Complaint form