



Policy Name:	Non-Discrimination and Non-Harassment Policy and Complaint Resolution Procedures
Effective Date:	August 10, 2023
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Approving Authority:	Northwest Leadership Team
Responsible Office:	Title IX and Equity
Category:	Personnel & Student Life

**I. Policy Statement**

Northwest Missouri State University (the “University”) is committed to providing a learning and working environment for all faculty, staff, students, and third parties that promotes personal integrity, civility, and mutual respect free of prohibited discrimination or harassment. In keeping with that commitment, the University adopted this Non-Discrimination and Non-Harassment Policy (the “Policy”), which prohibits discrimination and harassment in connection with the University’s programs and activities<sup>1</sup> based on an individual’s race, color, religion, national origin, sex, sexual orientation, gender identity, pregnancy, ancestry, age, disability, genetic information, veteran status, or any other legally-protected class (collectively “Protected Statuses”).

**II. Scope**

This Policy applies to complaints of discrimination or harassment based on a Protected Status that occurs within the University’s programs and activities and that is committed by an administrator, faculty member, staff, student, contractor, or guest (the “University Community”). This Policy

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<sup>1</sup> “University programs and activities” refers to all the operations of the University, including, but not limited to, admissions, academics, in-person and online educational instruction, employment (including but not limited to, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, benefits, job-related training, and compensation), research activities, extracurricular activities, athletics, residence life, dining services, student services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by the University. It also includes off-campus locations, events, or circumstances over which the University exercises substantial control over the respondent and the context in which the incident occurs, including incidents occurring in any building owned or controlled by a student organization that is officially recognized by the University.

applies to the University's programs and activities both on and off campus, including overseas programs.

This Policy does not apply to off-campus, non-University, or private settings, outside the scope of University programs and activities; however, such alleged misconduct may be prohibited by the Student Code of Conduct, the Faculty Handbook, or other University policies and standards. Further, alleged discrimination or harassment falling within the scope of this Policy may also be prohibited by the Student Code of Conduct if committed by a student, the Faculty Handbook if committed by a faculty member, or other University policies and standards. In such cases, the University will exercise discretion to determine which policy(ies) and related procedures to apply.

Importantly, allegations of Sexual Harassment<sup>2</sup> as defined by the University's Title IX Sexual Harassment policy ("Sexual Harassment Policy") are outside the scope of this Policy. Such allegations will be addressed under the Sexual Harassment Policy. Discrimination or harassment based on sex (such as differential treatment or harassment that does not meet the definition of Sexual Harassment) may be addressed under this Policy or other applicable policies.

### **III. Definitions**

#### **A. Discrimination**

Discrimination in employment can be defined, generally, as an adverse employment action directed at a specific individual or a group of identifiable individuals based on that individual's or group's Protected Status.

Discrimination in education can be defined, generally, as conduct that, based on an individual's or group's Protected Status, subjects that individual or group to treatment that adversely affects their ability to enjoy a full right to educational opportunities, including participation in academics, and/or the University's other programs and activities.

#### **B. Harassment**

Harassment in employment can be defined, generally, as unwelcome conduct that is based on a Protected Status, where enduring the offensive conduct becomes a condition of continued employment, or the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Harassment in education can be defined, generally, as conduct motivated by an individual's Protected Status that is sufficiently severe, persistent or pervasive so as to interfere with or limit the ability of an individual to participate in or benefit from the University's programs or activities.

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<sup>2</sup> Allegations of sexual harassment include *Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence or Stalking, and related retaliation, as defined in the Title IX Sexual Harassment Policy*: <https://www.nwmissouri.edu/policies/student/Title-IX-Sexual-Misconduct.pdf>.

#### **IV. Complaints**

##### **A. Making a Complaint & Required Reporting**

Many incidents of discrimination and/or harassment can be effectively addressed with a minimum of disruption to the affected Community Member and the University if promptly reported. Failure to report perceived discrimination and/or harassment on a timely basis may make it difficult for the University to take effective corrective action.

Any individual may file a complaint verbally or in writing to one or more of the following:

Assistant Vice President of Title IX and Equity (the “Director”)  
Dr. Stephanie Krauth  
305 Administration Building  
Tel: 660.562.1476  
Email: [skrauth@nwmissouri.edu](mailto:skrauth@nwmissouri.edu)

Bearcat Equity  
Reporting form found at  
<https://www.nwmissouri.edu/titleixequity/BearcatEquity/index.htm>  
Email: [equity@nwmissouri.edu](mailto:equity@nwmissouri.edu)

If a verbal or written complaint is made to a supervisory level employee at the University, the supervisor shall promptly document and forward the complaint and information to the Director and may also inform the complainant that the complainant’s own written complaint can be submitted directly to the Director.

##### **B. Content of the Complaint**

So that the University has sufficient information to review a complaint, the complaint should include: (1) the date(s) and time(s) of the alleged conduct; (2) the names of all individual(s) involved in the alleged conduct, including possible witnesses; (3) all details outlining what happened; (4) appropriate supporting documentation that is directly related to the complaint; (5) a description of the desired outcome; and, (6) contact information for the complainant so that the University may follow up appropriately.

##### **C. Conduct that Constitutes a Crime**

An individual who wishes to make a complaint of discrimination or harassment that also constitutes a crime – including hate crimes, assault, or property offences—is encouraged to make a complaint with the University Police Department (Tel: 660-562-1254) or local law enforcement (Emergencies: 911). If requested, the University will assist the complainant in notifying the appropriate law enforcement authorities. In the event of an emergency, please contact 911. A complainant may decline to notify such authorities.

##### **D. Timing of Complaint**

The University encourages individuals to make complaints of discrimination and harassment as

soon as possible because late reporting may limit the University's ability to review, investigate and respond to the conduct complained of.

**E. Anonymous Complaints**

While anonymous complaints will be accepted, the University may be limited in its ability to review, investigate, or resolve anonymous complaints. If the anonymous complaint contains sufficient information regarding the conduct, the University will take reasonable steps to address the concerns in coordination with any relevant department or division.

**F. Bad Faith Complaints**

While the University encourages all good faith complaints of discrimination and harassment, the University has the responsibility to balance the rights of all parties. Therefore, if the University's review or investigation reveals that a complaint was knowingly false, the complaint will be dismissed, and the individual who filed the knowingly false complaint may be subject to discipline.

**V. Retaliation**

The University prohibits retaliation against any member of the University Community for reporting discrimination or harassment, assisting in making a complaint, cooperating in an investigation, or otherwise exercising their rights or responsibilities under this Policy and applicable federal, state, and local laws. Retaliation prohibited by this Policy is materially adverse action (action that might deter a reasonable person from engaging in protected activity), such as disparaging comments, uncivil behavior, or other negative treatment of an employee, student, or other member of the University Community. An individual who believes they have been retaliated against in violation of this Policy should make a complaint in the manner set forth in the "Making a Complaint" section above.

**VI. Review, Investigation and Confidentiality**

When a complaint of discrimination or harassment based on Protected Status is made pursuant to this Policy, the University will review the complaint, determine applicable processes, and resolve the matter accordingly.

Complaints that require an investigation will be investigated in accordance with the Complaint Resolution Procedures (the "Procedures"), below.

The University will make reasonable and appropriate efforts to preserve an individual's privacy and protect the confidentiality of information when reviewing, investigating and/or resolving a complaint; however, the University cannot guarantee confidentiality to those who make complaints. As determined appropriate by the University, communications are made on a "need to know" basis in order to conduct a review, investigation, or to implement further action (such as remediation or discipline).

In the event a complainant requests confidentiality or asks that a complaint not be reviewed or investigated, the University will take all reasonable steps to review or investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue a review or

investigation. If a complainant insists that their name not be disclosed to the respondent, the University's ability to respond may be limited. The University reserves the right to initiate a review or investigation and take action despite a complainant's request for confidentiality in circumstances involving a potential crime, serious or repeated harassment, or where the respondent may pose a continuing threat to the University Community.

## **VII. Impartiality**

University officials involved in a complaint resolution process will avoid conflicts of interest. If such an official has an actual or perceived conflict of interest, another appropriate University official will be designated to complete the review and any investigation procedures. Parties and others aware of actual or perceived conflicts of interest should notify the Director as soon as practicable.

## **VIII. Resolution**

After review or investigation of a complaint, the University will take action it deems to be appropriate, including disciplinary and remedial action. An individual found to be in violation of this Policy will be subject to sanctions, as set forth below.

## **IX. Limitations**

Petty slights, minor annoyances, and isolated incidents (unless severe) of rude, uncivil, or non-collegial behavior will generally not rise to the level of a Policy violation and should be addressed to a supervisor. The legitimate exercise of supervisory authority, including oversight, evaluation, and requiring adherence to standards of performance, conduct, and safety, is not considered discrimination, harassment, or retaliation under this Policy.

## **X. Complaint Resolution Procedures**

These Complaint Resolution Procedures (the "Procedures") apply to all complaints alleging discrimination, harassment, and retaliation prohibited by the Policy for which the Director has determined appropriate for informal resolution or investigation.

## **XI. Administration**

For purposes of these Procedures, "Investigating Officer" means one or more University officials or third parties designated by the AVP for Title IX & Equity (the "Director") to investigate a complaint.

If the Investigating Officer, together with the Director, determines that the Investigating Officer cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, the Director may designate another appropriate individual as an Investigating Officer.

## **XII. Review, Investigation and Resolution of a Complaint**

### **A. Determination and Commencement of the Investigation**

After receiving a complaint made pursuant to this Policy, the Director will conduct a preliminary review to determine: i) whether the conduct, as reported, falls or could fall within the scope of this Policy; ii) whether the conduct, as reported, constitutes or could constitute a violation of this Policy; and, iii) whether resolution has or can be achieved via informal resolution.

If the Director determines that the conduct reported could not fall within the scope of the Policy, and/or could not constitute a violation of this Policy, even if investigated, the Director will close the matter and may notify the reporting party. The Director may refer the complaint to other University offices, as appropriate.

If the Director determines that the conduct reported could fall within the scope of the Policy, and could constitute a Policy violation, the Director will proceed with either an informal resolution or an investigation, as set forth below.

Where the Director recommends an investigation and appoints an Investigating Officer, an investigation will commence, as soon as practical, and in most instances within seven (7) days of the appointment of an Investigating Officer. The purpose of the investigation is to determine whether it is more likely than not that the alleged behavior occurred and, if so, whether it constitutes a violation of the Policy.

In certain circumstances, an investigation may commence even if the complainant requests that the matter not be pursued. In such a circumstance, the Investigating Officer will take all reasonable steps to investigate and respond to the matter in a manner that is informed by the complainant's articulated concerns.

#### **B. The Content of the Investigation**

During the investigation, the complainant will have the opportunity to describe their allegations and identify supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and identify supporting witnesses or other evidence. The Investigating Officer will review statements and, depending on the circumstances, may interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

#### **C. Interim Measures**

At any time during the investigation, the Director may determine that interim measures for the parties involved or witnesses are appropriate. These interim measures may include, but are not limited to: separating the parties, placing limitations on contact between the parties, suspension, or making alternative living, class-placement, or workplace arrangements. Supervisors, staff advisors, and other University employees may be notified of interim measures if their notification is necessary to ensure the interim measures are appropriately observed. Failure to comply with the interim measures may constitute a separate violation of University policies.

#### **D. Findings of the Investigation**

At the conclusion of the investigation, the Investigating Officer will prepare a preliminary written report. The written report will explain the scope of the investigation and explain whether any allegations in the complaint were found to be substantiated by a preponderance of the evidence.

The preliminary written report will be submitted to the Director. The Director may accept the preliminary written report, request to review additional information, including summaries of party/witness statements or other information, or return the preliminary report for further investigation. After the review of the preliminary report is complete, the Director will make a determination, and inform the complainant and respondent of the outcome of the investigation, and to the extent appropriate, any sanctions (which will be determined in consultation with the Director of HR for employee respondents, and with the Dean of Students for student respondents).

If there is a determination that the behavior investigated did not violate the Policy, both parties will be so informed.

If it is determined that the terms of this Policy have been violated, the University will take steps designed to prevent reoccurrence of the offending conduct. An individual found to be in violation of this Policy will be subject to disciplinary sanctions, including without limitation: written reprimand, probation, suspension, demotion/reassignment, termination, or dismissal; contractors may be subject to contract termination or removal from the campus; program participants may be removed from the University and/or prevented from returning to campus. Remedial steps may also include, but are not limited to: counseling for the complainant; academic, work, transportation, or living accommodations for the complainant; separation of the parties; mediation; education; and training for the respondent and other individuals.

The University recognizes that in some cases, despite an investigation, it may be impossible to determine whether the alleged violations of this Policy have in fact occurred. In such cases, the University may take non-disciplinary action designed to reinforce the effectiveness of this Policy and to prevent future violations. Further, there may be a determination that the behavior investigated did not violate this Policy, but was inappropriate, unprofessional, or violated or potentially violated some other University policy. The Director may determine that such inappropriate behavior merits discipline, ongoing monitoring, coaching, referral to another department for investigation, or other appropriate action. If so, the Director may initiate further proceedings or impose sanctions consistent with University policy.

Once the University has addressed concerns raised with respect to discrimination, harassment and/or retaliation, it will assume that the problem is not continuing in nature unless it is informed otherwise. Members of the University Community who believe they have again been discriminated against and/or harassed in violation of this Policy must report this reoccurrence immediately pursuant to this Policy.

**E. Special Procedure Concerning Complaints Against the President, the Director, and Administrators Senior to the Director**

If a complaint involves alleged conduct on the part of the University President, the University Board of Regents will designate an appropriate third-party to conduct the investigation required by these Procedures. The written report of the investigation will be presented to the full Board of

Regents, which will prepare and issue the written determination and implement any appropriate and reasonable measures. The resolution issued by the full Board of Regents is final and not subject to appeal.

If a complaint involves alleged conduct on the part of the Director or any administrator senior to the Director, the President will designate an appropriate employee or a third-party to conduct the investigation required by these Procedures. The written report of the investigation shall be presented to a Vice President level administrator (“Designated Administrator”), who will prepare and issue the written determination and implement appropriate and reasonable measures. The resolution issued by the Designated Administrator is not subject to appeal.

#### **F. Informal Resolution**

Informal means of resolution, such as mediation or a written informal resolution agreement, may be used in lieu of the formal investigation and determination procedure. However, informal means may only be used if all parties consent and the Director approves of informal resolution. Either party or the Director may terminate the informal resolution and insist on a formal investigation and determination, at any time.

### **XIII. Appeals**

#### **A. Grounds of Appeal**

The complainant or respondent may appeal the determination only on the following grounds:

- A procedural irregularity affected the outcome,
- There is new evidence that was not reasonably available at the time of the determination, that could have affected the outcome, University officials involved in the investigation or the determination had a conflict of interest concerning complainant or respondent.

#### **B. Method of Appeal**

Appeals must be filed with the Vice President of Student Affairs (if the respondent is a student) or the Assistant Vice President of Human Resources (if the respondent is a non-student) (the “Appeals Officer”) within ten (10) days of receipt of the written determination of the complaint. The appeal must be in writing and contain the following:

- Name of the complainant,
- Name of the respondent,
- A statement of the resolution of the complaint, including corrective action if any,
- A detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of it, and
- Requested action, if any.

The appellant may request a meeting with the Appeals Officer, but the decision to grant a meeting is within the Appeals Officer’s discretion. However, if a meeting is granted, then the other party will be granted a similar opportunity.



**C. Resolution of the Appeal**

The Appeals Officer will resolve the appeal within fifteen (15) business days of receiving it and may take any and all actions that they determine are in the interest of a fair and just decision. The decision of the Appeals Officer is final. The Appeals Officer shall issue a concise, written statement of the resolution of the appeal, including any changes made to the previous written determination. The written statement shall be provided to the complainant, respondent, and the Director within three (3) days of the resolution.