



DISCRIMINATION/SEXUAL HARASSMENT POLICY

Section I: Policy Statement

The University of Wisconsin-Superior is committed to the elimination of discrimination and discriminatory harassment towards students or employees and will not tolerate discriminatory by university employees, including administrators, faculty, staff, or by students. To the extent that demeaning or intimidating conduct increases the likelihood for physical violence or breach of the peace, it is contrary to the basic purpose of the university. Employees who engage in discriminatory or harassing conduct as defined in this policy or who retaliate against those filing or assisting in the processing of complaints of discriminatory conduct or harassment, or students who engage in conduct prohibited under chs. UWS 17 or 18, Wis. Adm. Code, will be subject to appropriate disciplinary actions. The prohibition against retaliation extends to the exercise of rights under any federal or state law protecting veterans.

Students: No student may be denied admission to, or participation in or the benefits of, or be discriminated against in any service, program, course or facility of the system or its institutions on the basis of race, color, creed, religion, age, sex, sexual orientation, gender identity or expression, national origin, ancestry, disability, pregnancy, marital or parental status, veteran status, or any other category protected by law, including physical condition and developmental disability as defined in Wisconsin Statutes § 51.01(5).

Employees: No employee may be discriminated against on the basis of race, color, creed, religion, age, sex, sexual orientation, gender identity or expression, national origin, ancestry, disability, pregnancy, marital or parental status, genetic information, arrest record, conviction record, military service, disabled/protected/other veteran status, use or nonuse of lawful products off the employer's premises during non-working 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 provision includes employment-related actions, such as recruitment, interviewing, testing, screening, placement, classification, evaluation, transfer, promotion, training, compensation, fringe benefits, layoffs or dismissal.

UW-Superior prohibits using institution technology (e.g. computers, e-mail systems, voice mail systems, or webpages) in any manner that would violate this policy.

Specific incidents of alleged discrimination or discriminatory harassment will be reviewed on a case-by-case basis in accordance with the procedures set forth. Due consideration will be given to the protection of individual First Amendment rights to freedom of speech, expression, and academic freedom. Some instances require investigation and remedy even if the alleged victim does not wish to proceed.

Section II: Definitions

A. "Discrimination" is 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 and defined herein.

B. Discriminatory Harassment 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 group 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 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.

C. "Sexual harassment" is a subset of discriminatory harassment. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other physical conduct and expressive behavior of a sexual nature where: (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; (b) submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting that individual; or (c) such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating an intimidating, hostile or demeaning employment or educational environment.

D. "Retaliation" is defined as an adverse action taken against an individual in response to, motivated by or in connection with an individual's complaint of discrimination or discriminatory harassment or participation in the complaint process.

Section III: Informational Options for Addressing Allegations of Discrimination, Discriminatory or Sexual Harassment, and Retaliation at UW-Superior

Individuals who believe they have been subjected to discriminatory conduct or subjected to unlawful harassment or retaliation may go directly to the formal process in section IV or strive for satisfactory resolution through the following informal options in a timely manner.

Individuals who are on campus outside of normal work/class hours should contact their immediate supervisor, a member of the administration, or the Affirmative Action Officer.

Option 1: Approach the individual allegedly responsible for the discriminatory acts or sexual harassment for the purpose of discussing and clarifying the offensive experience. It is recommended that this discussion be a private opportunity for persons involved to share their points of view and potentially reach a satisfactory resolution.

Option 2: Write a confidential letter to the individual allegedly responsible for the discrimination or sexual harassment, identifying what happened and when; sharing the feelings experienced; and stating the desired resolution.

Option 3: Consult in a strictly confidential manner with the Affirmative Action Officer appointed by the Chancellor.

1. Responsibilities of the Affirmative Action Officer include:
 - a. Helping individuals who claim discriminatory acts or sexual harassment to clarify their perceptions of the offensive behavior/act;
 - b. Delineating the various courses of action available to individuals who may have been discriminated against or sexually harassed; or
 - c. Referring individuals to professional counseling for additional guidance/support;
 - d. Assisting individuals who claim discriminatory act or sexual harassment in communicating with the individual allegedly responsible for the discriminatory acts or sexually harassing act(s), either in writing or in person, where either one or both seems warranted OR act as an intermediary in cases where the complainant wishes to remain anonymous;
 - e. Providing follow-up with individual who claims discriminatory acts or sexual harassment if the individual has taken the initiative in attempting resolution of the incident(s); and
 - f. Maintaining communication with the Affirmative Action office so a developing pattern may be recognized and so record-keeping can be maintained.
2. No sanctions or disciplinary action against the accused may be established by the Affirmative Action Officer.

Option 4: Bring an allegation of discrimination or sexual harassment to the Affirmative Action office for investigation and review. The Affirmative Action Officer will investigate the allegation within the following limits:

1. The Affirmative Action Officer will be present, at the request of the individual making the allegation, in all meetings involving that individual.

2. At the option of the individual making the allegation, his/her identity will be kept confidential to the extent possible in an investigation.
3. In the attempt to achieve resolution, the Affirmative Action Officer may talk to the individual against whom the allegation is made. The purpose of this discussion will be to allow the individual to respond to the allegation. Should he/she respond that the allegation is based on fact, the Affirmative Action Officer will inform him/her of the implications of the behavior and attempt to resolve the issue to the mutual satisfaction of both parties and to the university.
4. If a resolution has not been effected and the merits of the issue warrant further consideration, the Affirmative Action Officer will serve as a mediator in attempting to achieve resolution, which may include discussions with the complainant, the alleged harasser, his/her supervisor, other line supervisors, the Chancellor, System Legal Counsel and, depending upon the department housing the complainant and the alleged perpetrator, the Vice Chancellor, the Assistant Vice Chancellor, and the Dean of Students. At this point, strict confidentiality will no longer be possible.
5. If the matter has been resolved, a written, signed, record of the resolution will be show to both parties and kept in a confidential file in the Affirmative Action Office for five years commencing on the date the form is filed. The content of the confidential file will be available only to the Affirmative Action Officer, Chancellor, complainant, alleged perpetrator, and, depending upon the department housing the grievant and respondent, the Vice Chancellor, Assistant Vice Chancellor, or Dean of Students.
6. If no informal resolution is agreed upon, the complainant has the option of withdrawing the complaint or filing a formal complaint as follows.

Section IV: Formal Complaint Procedures for Addressing Allegations of Discrimination and Sexual Harassment at UW-Superior

If a satisfactory resolution cannot be achieved using the informal procedures listed or if anyone involved in a discriminatory or sexual harassment situation wishes to bypass the informal procedures, the following formal procedures are available.

- A. A written complaint can be filed up to five years from the date of the alleged incident. In cases of ongoing or repeated discrimination/harassment, the 5 years can be counted from the last incident. Nevertheless, it is recommended that a complaint be filed as close to the date of the alleged incident as possible. Complaints may be accepted beyond this period at the discretion of the Affirmative Action Officer, with the concurrence of the Chancellor, if the complainant can demonstrate a compelling reason for the delay in bringing forward the complaint. Complainants should be aware that separate deadlines exist, usually 180 or 300 days, for filing complaints with agencies outside the University.

1. If the complainant pursues a complaint with the assistance of a Department Chair, Dean, Director, or immediate supervisor, (hereafter referred to as University agent), the following procedure will be employed:
 - a. At the time the complainant initially contacts the University agent, he or she will be informed of the availability of a resource person.
 - b. At the time the complainant initially contacts the University agent, he or she will be informed of the agent of the University's responsibility to act once knowledge of allegations of discrimination/harassment are in that agent's possession and of the possible limitation on confidentiality that may thus result once those allegations have been made.
 - c. The University agent will inform the office of Affirmative Action of the complaint in no more than five (5) working days from the initial contact for the purpose of maintaining statistics, providing assistance to the parties involved, and avoiding needless duplication or complicating initiatives should the circumstances of the complaint have come to the attention of the Office of Affirmative Action as well.
 - d. The University agent shall investigate and attempt to resolve the case in no more than twenty (20) working days from initial contact. In the event that the investigation cannot be completed within the time frame, the University agent, with substantial reasons, may request an extension of 20 working days from the Chancellor. The request can be repeated once more for a total of 60 days, if necessary.
 - e. In no more than three (3) working days from the resolution of the complaint, the University agent shall inform the Office of Affirmative Action of the outcome. This information shall be kept in confidential files in the Office of Affirmative Action for the purpose of tracking complaint patterns.
 - f. The complainant need not exhaust this resolution procedure before filing a complaint with the Office of Affirmative Action.
 - g. Written notice must be provided to all parties of any departure from these procedures.
2. If the complainant pursues the complaint with the assistance of the Office of Affirmative Action and the matter is not resolved informally, the following procedure will be employed:
 - a. At the time the complainant contacts the Office, he or she will be informed of the availability of a resource person and of psychological services through either the Student Health Service or the Employee Assistance Plan.
 - b. Within three (3) working days of the filing of the complaint, a copy of that complaint will be forwarded to the complainant, the respondent and the

Chancellor. Other University agents will be included on a need to know basis only at the discretion of the Affirmative Action Officer. This copy is for informational purposes only and is not to become part of any permanent personnel files.

- c. The office, through the following appropriate committee, will complete an investigation within ninety (90) working days of the date the complaint is filed. Only permanent employees who hold at least a 50% appointment with UW-Superior may serve on any of the committees.

[1] If the complaint is against a faculty member, the complaint shall be sent to the Faculty Personnel Council.

[2] If the complaint is against an academic staff member, the committee shall consist of at least two academic staff members appointed by the Academic Staff Senate and one Academic Staff member or Administrator appointed by the Chancellor at the beginning of each academic year and ratified at the Academic Staff Senate general meeting.

[3] If the complaint is against a member of the classified staff, the committee shall consist of members appointed by the Chancellor and shall be composed of 3 members including one faculty and one classified staff member appointed by the appropriate union.

[4] If the complaint is against a student, the committee shall consist of members appointed by the Chancellor and shall be composed of at least three (3) members including the Dean of Students and one faculty member.

- d. The committees will follow the University of Wisconsin-Superior Investigating Guidelines for Formal Complaints of Discrimination/Sexual Harassment
- e. Within three (3) working days of the conclusion of the investigation, the Committee/office shall transmit the findings and recommendations of the investigation to the complainant and the respondent, to those individuals initially informed of the formal complaint, and to any other University agents involved in the resolution of the case. If the resolution involves recommendations that affect employees' conditions of employment or remuneration, the office shall transmit the findings and recommendations of the investigation together with supporting documentation to the Chancellor or the Chancellor's designee within three (3) working days. If the resolution involves recommendations that affect students' conditions of enrollment or conduct on campus, the office shall transmit the findings and recommendations of the investigation together with supporting documentation to the Dean of Students. The Chancellor (or designee) or the Dean of Students will make a decision with regard to the recommendation

and inform the complainant, respondent and Office of Affirmative Action within twenty (20) working days.

- f. Decisions of the Chancellor or Chancellor's designee may be appealed. Procedures governing appeals and requisite time lines vary with a person's employment status and with whether or not dismissal is the discipline being recommended. Employees are referred to UW-S Faculty and Academic Staff Policies and Procedures Handbook, The Wisconsin Administrative Code and relevant collective bargaining agreements. Students are referred to Chapters 17 and 18, The Wisconsin Administrative Code.
- g. Except in cases of dismissal where extant procedures may dictate differently, the Chancellor will make a final disposition within ten (10) working days of receipt of the findings and recommendations of the body hearing the appeal. A summary of that disposition will be forwarded to the hearing body, the complainant, the respondent, the Office of Affirmative Action and the University agents notified at the initiation of the complaint.
- h. Written notice must be provided to all parties, including the resource person of any departure from these procedures and/or time lines.
- i. The Office of Affirmative Action is responsible for keeping the involved parties, including third parties with standing in the case, of the status of the complaint throughout the entire process from the initial filing to its resolution.

B. External redress: Complainants may choose to consult with or pursue external redress with state/federal agencies dealing with these issues or with the judiciary system. The Office of Affirmative Action will provide information for pursuit of external redress upon request.

Section V: IMPLEMENTATION AND EVALUATION OF THE UW-S DISCRIMINATION/SEXUAL HARASSMENT POLICY

A. Publicity/education: All students, faculty, staff, and other employees will be informed of campus policy and procedures regarding discrimination/sexual harassment. The Office of Affirmative Action and the Affirmative Action/Equal Opportunity Committee share the duty of coordinating and supporting these activities.

B. Maintenance of data: The Office of Affirmative Action will maintain confidential records of the number of complaints, the nature of complaints, the general demographic characteristics of those filing complaints, and the disposition of complaints. An annual summary report of these data will be submitted to the Chancellor and reported by the Chancellor or his or her designee to the University community including the Affirmative Action/Educational Opportunity Committee, the Faculty Senate, the Academic Staff Council, the Graduate Council, the Student Senate and WSEU Local 42 by the beginning of each fall semester.

C. Confidentiality: Due to the sensitive nature of discrimination/sexual harassment cases, all parties involved are expected to strive to maintain confidentiality and to share information relevant to a case on a "need to know basis" only. Absolute confidentiality cannot be guaranteed.

D. Sanctions: The range of sanctions invoked in cases of discrimination/sexual harassment, depending on the nature of the complaint and whether or not the respondent has been warned or disciplined in the past, may include but are not limited to: verbal or written reprimand, change in teaching or work responsibilities, change in class attendance or contact, suspension with or without pay for a specified period of time, suspension from University classes, or dismissal. Disciplinary action for repeated harassment will become progressively more severe and may lead to dismissal. This provision does not preclude a severe sanction for a first offense, however, if justified by the circumstances.

E. Evaluation: UW-S's Policies and Procedures relating to discrimination/sexual harassment will be reviewed annually and redrafted if necessary by the Affirmative Action/Educational Opportunity Committee for presentation to the Chancellor for approval if there are minor changes. Substantial changes will be made through the usual approval forums.

Section VI: RELATED POLICIES AND INFORMATION

UW-Superior Consensual Relationship Policy
UW-Superior Dealing with Inappropriate Behavior by Staff and Students Q&A
UW-Superior Discrimination/Sexual Harassment Compliant Procedures (flowchart)
UW-Superior Student Handbook/Conduct
UW-Student Informal Complaint/Grievance Form
UW-Superior Unclassified Staff Handbook
UW-Superior Classified Staff Handbook
UW System Code of Ethics and Nepotism Policies
Board of Regents' Policy, 14-6, Discrimination and Discriminatory Harassment
Chapter 230 of the Wisconsin Statutes

APPROVED BY CHANCELLOR *Renu W...*

Date 5/1/2014