



UNIVERSITY POLICY

HUMAN RESOURCES POLICIES

Number: 305

Subject: Discrimination, Harassment, and Retaliation Policy

Covered Individuals: All UIU Employees, Students, and Visitors

Covered Campus Locations: All Locations

Effective Date: July 18, 2018

Date of Latest Revision: August 31, 2020

PURPOSE

To provide an educational and working environment free of unlawful discrimination, harassment, and associated retaliation for all members of the Upper Iowa University (University or UIU) community, to establish a complaint resolution procedure to help identify and eliminate such behavior, and to resolve such complaints in a fair and timely manner.

DEFINITIONS

COMPLAINANT – The person alleging a violation of this policy.

DISCRIMINATION -- Defined as conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their employment or education because of their race, color, religion, age, sex (including pregnancy), national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state or local laws.

HARASSMENT -- A form of discrimination that is defined as oral, written, graphic, or physical conduct that is directed at an individual or group because of race, color, religion, age, sex (including pregnancy), national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state or local laws when such conduct is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of interfering with an individual's or group's academic or work performance; or that creates an academic or work environment that a reasonable person would find hostile, intimidating, or abusive. This conduct can include technology-based communications such as texting, online classroom chats, or social networking sites.

RESPONDENT -- The person who is alleged to have violated this policy.

RETALIATION – Any adverse action, treatment, or condition taken because of an individual’s participation in a protected activity (reporting or opposing discrimination or harassment or participating in an investigation regarding discrimination or harassment) including an act intended to intimidate, threaten, or coerce, that is likely to dissuade a reasonable person from opposing discriminatory or harassing practices, filing a charge of discrimination or harassment, or participating in an investigation regarding discrimination or harassment.

POLICY

It is the intent of the University to review and resolve complaints of discrimination, harassment, and retaliation brought by any member of the University community, including faculty, staff, students, and visitors. Each supervisor has a responsibility to maintain the workplace free of discrimination. This duty includes discussing this procedure with all employees and assuring them that they are not to endure discrimination, harassment, and retaliation and that false accusations will result in disciplinary action, up to and including termination. For employee-related complaints, the Vice President for Human Resources or designee will be responsible for maintaining records of all formal complaints and the results of such complaints. For student-related complaints, the Associate Vice President for Student Life (AVPSL) or designee will be responsible for maintaining records of all formal complaints and the results of such complaints.

Title VII of the Civil Rights Act of 1964 protects individuals against discrimination on the bases of race, color, national origin, sex, and religion. UIU, in accordance with applicable federal and state law (including Title VII) and institutional values, prohibits discrimination or harassment on the bases of race, creed, ancestry, marital status, citizenship, color, national origin, sex, religion, age, disability, veteran’s status, sexual orientation, or gender identity. All personnel actions, including recruitment, employment, training, upgrade, promotion and demotion, termination, and salary administration are reviewed to ensure Equal Employment Opportunity (EEO) compliance.

Complaints of discrimination based upon sex related to sexual harassment and/or sexual misconduct are generally governed by the University’s Title IX Sexual Misconduct Policy.

1. Reporting

All suspected discrimination, harassment, or retaliation should be reported. The University cannot attempt to address the questioned behavior if it is not made aware of it. Consequently, it is important that any case of suspected discrimination, harassment, or retaliation, whether you simply observe it or are a victim of it, should be reported. A person who believes that he or she has been subjected to any type of discrimination, harassment, or retaliation should report the incident to the appropriate University official, administrator, supervisor, or the Vice President for Human Resources. Students are encouraged to report such incidents to the AVPSL or designee. Employees and visitors are encouraged to report to the Vice President for Human Resources or designee. Incidents should be reported as soon as possible after the time of their occurrence.

Another reporting option is Lighthouse reporting, which may be anonymous. Lighthouse may be reached on their web site, which is www.lighthouse-services.com/uiu, by phone at 833-350-0022, or by email at reports@lighthouse-services.com (UIU must be identified in the email).

The Human Resources office is located on the first floor of the Alexander-Dickman building at 605 Washington St, Fayette, IA 52142. The main Human Resources phone number is (563) 425-5959.

The Student Life office is located on the second floor of the Student Center at 605 Washington, Fayette, IA 52142. The main Student Life phone number is (563) 425-5215.

2. Procedure for Resolving Complaints

The procedures outlined in this section apply to any member of the University community (faculty, student, staff, and administration) who engages in discrimination, harassment, or retaliation. Any person can report alleged harassment or discrimination, including faculty, students, staff, administration, guests, visitors and third-parties. UIU strives to resolve all reports within 60 days from receipt; however, the timeline to resolve any report may be extended per the discretion of Human Resources (with complaints involving employees) or Student Life (with complaints involving students).

Informal Resolution

Some complaints of discrimination, harassment, or retaliation can be resolved through the informal resolution process. Informal resolution procedures are optional and may be used with the agreement of the involved parties when the University determines that it is appropriate.

- First, tell the person to stop. Confronting the person, in many instances, will stop the conduct. If you are able, clearly explain to the person that you are uncomfortable with his or her behavior and ask that it cease immediately.
- Second, you should also report the situation to either your immediate supervisor or the Vice President for Human Resources. Students are encouraged to report the situation to the AVPSL who will then handle the complaint, whether informal or formal.

Formal Resolution Process for Reports of Discrimination, Harassment, and Retaliation by Employees & Students

The formal resolution process can be initiated at any time.

Formal Resolution Process for Reports of Discrimination, Harassment, and Retaliation by Employees

Human Resources is designated to formally investigate reports or notice of discrimination, harassment, or retaliation by employees. Any member of the University community can provide notice of discrimination, harassment, or retaliation in person or orally to an appropriate official; however, UIU strongly encourages submission of written reports to Human Resources.

The following are recommended elements of a report:

- A clear and concise description of the alleged incident(s) (e.g., when and where it occurred).
- Any supporting documentation and evidence.
- A clear demonstration of all informal efforts, if any, to resolve the issue(s) with the person involved and the person's supervisor, including names, dates, and times of attempted or actual contact, along with a description of the discussion and the manner of communication made in the course of each effort. Complainant is under no such obligation to take informal efforts to resolve the issue before reporting any discrimination, harassment, or retaliation.
- The reasons for failure or reluctance to contact the person involved and/or the supervisor.
- The name and all contact information for the Complainant.
- The signature of the Complainant.

Upon receipt of a report or notice, Human Resources will direct the investigation and decide on any interim action.

Human Resources will then take the following steps (not necessarily in order):

Upon receipt of report:

- Initiate any necessary interim measures.
- Determine the identity and contact information of the Complainant and Respondent.
- Identify the exact policies allegedly violated.
- Conduct an initial inquiry to determine if there is reasonable cause to charge the Respondent and what policy violations should be alleged as part of the charge.
- Meet with the Complainant to finalize their statement.
- Prepare the notice of charges on the basis of the initial inquiry.
- If there is insufficient evidence to support reasonable cause, the report should be closed with no further action.
- Conduct a thorough, reliable, and impartial investigation.

Investigation:

UIU will attempt to conduct a thorough, impartial, and timely investigation of all complaints of discrimination, harassment, or retaliation. All cases of reported discrimination, harassment, or retaliation are held in confidence to the extent possible in order to conduct the investigation. The investigation could include, but is not limited to, the following procedure:

- Interviewing the Complainant to obtain her/his account of the alleged discrimination, harassment, or retaliation, or to verify information the Complainant has already provided in her/his report or complaint.
- Interviewing the Respondent to obtain her/his account of the alleged discrimination, harassment, or retaliation.

- Both Complainant and Respondent will be asked if there are witnesses the investigators should interview and/or other evidence Human Resources should review that will provide information relevant to the alleged discrimination, harassment, or retaliation.
- Interviewing any witnesses who may have information of relevance to the alleged discrimination, harassment, or retaliation.
- Human Resources may exercise discretion in the selection of witnesses to be interviewed.
- Human Resources may conduct additional interviews with witnesses whose names were provided by individuals other than the Complainant or the Respondent.
- Reviewing other evidence of relevance to the alleged discrimination, harassment, or retaliation, such as video recordings, text messages, photographs, etc.
- Human Resources will prepare a written summary of the investigation and compile all information into an investigative file.
- The investigative file may include the written complaint; any written records of investigative interviews with the Complainant, the Respondent, and any witnesses; any other evidence (text messages, video recordings, etc.); and a summary of the investigation.

Upon conclusion of investigation:

- Make a finding as to responsibility of the alleged discrimination, harassment, or retaliation.
- Confer as necessary with the relevant President's Council members to finalize the determination.

Where the responding party is found not responsible for the alleged violation(s), the investigation will be closed. Where a violation is found, the University will act to end the discrimination, harassment, or retaliation, prevent its recurrence, and remedy its effects on the reporting party and the University community. Any employee who is found to have discriminated, harassed, or retaliated against another person, employee or otherwise, shall be subject to discipline, up to and including termination of employment.

Formal Resolution Process for Reports of Discrimination, Harassment, and Retaliation by Students

Reports can be made in person, by phone, via email or in writing to:

- Danielle Rosario Cushion, Associate Vice President for Student Life
Office: Student Life, 2nd floor Student Center, Office 234
Phone: 563-425-5765
E-mail: studentlife@uiu.edu

Upon receipt of a report, the AVPSL will open a formal inquiry and assign an investigation team who will direct the investigation and decide on interim action, accommodations for the reporting party, or other necessary remedial short-term actions.

The AVPSL or designee will then take the following steps (not necessarily in this order)

Upon receipt of report:

- Initiate any necessary remedial actions.
- Determine the identity and contact information of the Complainant and Respondent.
- Identify the exact policies allegedly violated.
- Conduct an immediate initial inquiry to determine if there is reasonable cause to charge the Respondent and what policy violations should be alleged as part of the report.
- Meet with the Complainant to finalize their statement.
- Prepare the notice of charges on the basis of the initial inquiry.

Investigation:

- Conduct a thorough, reliable, and impartial investigation including witness interviews, review of the evidence, and interviews of the Complainant and Respondent.
- Provide regular updates on the status of the investigation to the Complainant.
- Complete an investigation report, including but not limited to, the date and time of the incident(s), location of the incident(s), date the report was received, list of investigators, list of alleged policy violated, list of evidence provided by parties during the investigation, timeline of the events, facts of the investigation that are in dispute, facts that are not in dispute, and any other details pertinent to the investigation.

Right to Advisor:

The Complainant and the Respondent each have the right to bring an advisor to the investigation meeting and/or hearing. The advisor may not act as a participant in the meeting, but may render consultation to the advisee. If either party chooses to exercise this option, he/she shall submit the name of the advisor in writing to the AVPSL at least forty-eight (48) hours prior to the meeting and/or hearing.

Hearing:

- Following the investigation, the AVPSL will convene a Student Conduct Board to hear the case.
- The Student Conduct Board will make a finding of responsible or not responsible based on a preponderance of the evidence standard (whether a policy violation is more likely than not).
- The AVPSL will present the findings to the Complainant and Respondent, who may accept the findings, accept the findings in part and reject them in part, or reject all findings.
- Where the Respondent is found not responsible for the alleged violation(s), the incident will be closed pending any appeal by the Complainant.

The AVPSL has final decision-making authority with regard to sanctions, subject to appeal. Where the Respondent is found in violation as the result of a hearing, the AVPSL will impose appropriate sanctions for the violation. UIU will act to end the discrimination, harassment, or retaliation, prevent its recurrence, and remedy its effects on the Complainant and the University community. The parties will receive written notification of the outcome of the hearing, to the extent permitted or mandated by law. This written notification of the final decision is delivered to the parties at as close to the same time as possible, and explains appeals options and procedures and any changes to the results that could occur before the decision is finalized.

Appeals:

Either the Complainant or the Respondent can initiate an appeal. All requests to appeal the decision or sanction(s) to the AVPSL must be submitted to the AVPSL in writing within two (2) weeks of receipt of the decision and/or sanction(s) for a review of the decision or the sanctions imposed.

3. General Provisions

Retaliation Prohibited:

UIU encourages reporting of discrimination, harassment, or retaliation and will not discipline any individual (or group) who makes a good faith report of discrimination, harassment, or retaliation, or participates in an investigation of such a report, or otherwise attempts to protect or enforce his or her rights under applicable federal and/or state anti-discrimination laws. Anyone who believes that they have been retaliated against for their participation under this policy is encouraged to file a complaint, which will be processed under this policy as a separate matter from the originally filed discrimination, harassment, or retaliation complaint, if any. Anyone found responsible for retaliation will be subject to disciplinary action, up to and including termination of employment or expulsion for students.

RULES, PROCEDURES, GUIDELINES, FORMS, AND OTHER RELATED RESOURCES

[Title IX Sexual Misconduct Policy](#)

CONTACTS

Acting as the policy owner, Human Resources is responsible for answering questions regarding the application of this policy.

SANCTIONS

When the Responding Party is an Employee

Any employee found responsible for violating the Discrimination, Harassment, and Retaliation policy may be subject to disciplinary action, up to and including termination of employment for faculty or staff.*

If it is determined, after following the procedures described above, to seek a penalty of dismissal or suspension against a member of UIU's faculty, the determination will proceed in accordance with the Faculty Handbook then in effect.

*The University reserves the right to broaden or lessen any range of sanctions in the case of serious mitigating circumstances or egregiously offensive behavior.

When the Responding Party is a Student

Any student found responsible for violating the Discrimination, Harassment, and Retaliation policy will likely receive a sanction ranging from probation to expulsion depending on the severity of the incident and taking into account any previous disciplinary violations.

HISTORY

July 18, 2018 – Revision and renaming of policy approved by the President's Council

November 25, 2019 – Further revision and reformatting of policy recommended by the University Policy Committee

December 11, 2019 – Revised and reformatted policy approved by the President's Council

August 31, 2020 – Changes in position titles, party designations, and references to the Title IX policy were made and endorsed by the University Policy Committee; none were substantive.