

NON-DISCRIMINATION AND NON-HARASSMENT POLICY

1.0 PURPOSE

Missouri Southern State University (the “University”) is committed to maintaining an environment for all faculty, staff, students, and third parties that is free of illegal discrimination and harassment. In keeping with that policy, the University prohibits discrimination and harassment by or against any faculty, staff member, student, applicant for admissions or employment, vendor, contractor, or other third party (collectively the “University Community”) because of their race, color, national origin, ancestry, religion, sex, sexual orientation, gender identity, pregnancy, age, genetic information, disability, veteran status, or any other legally-protected class (collectively “Protected Status”).

2.0 SCOPE

This policy applies to all members of the University Community, as well as others that participate in the University’s educational programs and activities. This policy applies to: (a) all terms and conditions of employment, including but not limited to, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, benefits, job-related training, and compensation; and (2) all educational programs and activities, including but not limited to, admissions, academics, athletics, housing, and student services.

Notwithstanding the above, pursuant to Title IX of the Education Amendments of 1972, which protects individuals from discrimination and/or harassment based on sex in education programs or activities, the University maintains a separate Sexual Harassment Policy. If individuals believe that they are experiencing or have experienced discrimination and/or harassment based on sex in education programs, they should consult the University’s Sexual Harassment Policy.

Additionally, the University maintains a Sexual Violence/Assault Policy, which should be consulted if individuals believe that they have experienced sexual violence or a sexual assault.

If employees want to report what they believe is an unlawful act or serious misconduct that violates a clear mandate of public policy as articulated in a constitutional provision, statute, or regulation promulgated under a statute, or if an employee refuses to carry out a directive that if completed would be a violation of the law, those employees should consult the University’s Whistleblower Protection Policy. The Whistleblower Protection Policy is not intended to apply to complaints based on an employee’s Protected Status as provided in this policy.

If employees wish to present a complaint about a work-related situation that is not covered by this policy or any of the other policies described in this section, they should consult the University’s General Employment Complaint Policy.

As to faculty, this policy is intended to be read in conjunction with applicable policies contained in the Faculty Handbook.

3.0 POLICY

I. 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 materially adverse 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 educational 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, and/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 and/or pervasive so as to interfere with or limit the ability of an individual to participate in or benefit from the educational programs or activities.

1. Sexual Harassment

Sexual harassment is covered by the University's Sexual Harassment Policy and employees and students should consult that policy for sexual harassment issues or complaints. Nevertheless, some examples of prohibited conduct include:

- Unwelcome sexual assaults, advances, or propositions – whether they involve physical touching or not
- Sexually oriented, suggestive, obscene, or insulting comments, language, jokes, written or verbal references to sexual conduct, comments about an individual's body, sexual activities, experiences, deficiencies, or preferences
- Displaying or possessing in the workplace sexually suggestive, revealing, or pornographic objects, pictures, graffiti, or cartoons
- Physical horseplay, practical joking, leering, unnecessary touching such as patting, pinching, or intentional brushing against another's body, or sexual gestures
- Threats, or promises of preferential treatment, designed to induce submission to or toleration of any of the above conduct

2. Racial Harassment

Some examples of prohibited conduct include:

- The use of racial epithets or slurs by staff or students
- A professor tells racist jokes that target persons of a particular national origin
- A coach uses stereotyping based on race, color, or national origin
- Fellow students circulate or publish written or graphic materials (such as graffiti) that show hostility to a racial or ethnic group
- A student in a residence hall places racially inflammatory symbols on the wall for the purpose of intimidating or harassing others

3. Disability Harassment

Some examples of prohibited conduct include:

- Fellow students continually remark that a student with a disability is “retarded” or “deaf and dumb” and does not belong in class or on a team
- A student intentionally impedes a wheelchair-bound employee by placing objects in his or her path
- A professor belittles or criticizes a student with a disability for requiring the use of accommodations with the result that the student is discouraged or feels alienated
- Fellow students taunt or belittle a person with a disability by mocking or intimidating her so she does not participate in class

II. Complaints

A. Making a Complaint

All members of the University Community have a responsibility to come forward and report behavior they believe may constitute discrimination and/or harassment. Many incidents of discrimination and/or harassment can be effectively addressed with a minimum of disruption to the affected employee, student 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. A member of the University Community that wishes to make a complaint of discrimination or harassment may do so by contacting the appropriate individual below:

Faculty, staff and third parties should report a potential violation of this policy to:

Evan Jewsbury
Chief Human Resources Officer
Office: Hearnest Hall Room 217B
Phone: 417-625-9805
Email: jewsbury-e@mssu.edu

or

Tamika Harrel
Title IX Coordinator
Office: BSC 347
Phone: 417-625-3022
Email: Harrell-t@mssu.edu

Students and prospective students should report a potential violation of this policy to:

Samantha Quackenbush
Director of Student Conduct
Office: BSC 347B
Phone: 417-625-9531
Email: quackenbush-s@mssu.edu

or

Tamika Harrel
Title IX Coordinator
Office: BSC 347
Phone: 417-625-3022
Email: Harrell-t@mssu.edu

B. Content of the Complaint

So that the University has sufficient information to investigate a complaint, the complaint should include: (1) the date(s) and time(s) of the alleged conduct; (2) the names of all person(s) involved in the alleged conduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the complainant so that the University may follow up appropriately.

C. Conduct that Constitutes a Crime

Any person 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 (Emergencies: 911; Non-emergencies: 417-626-2222) or local law enforcement. 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 victim may decline to notify such authorities.

D. Anonymous Complaints

While anonymous complaints will be accepted, the University may be limited in its ability to 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.

E. 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 investigation reveals that a complaint was knowingly false, the complaint will be dismissed, and the person who filed the knowingly false complaint may be subject to discipline.

III. Retaliation

It is a violation of this policy to retaliate against any member of the University Community who reports or assists in making a complaint or who participates in the investigation of a complaint in any way. Persons who believe they have been retaliated against in violation of this policy should make a complaint in the manner set forth in Section II.A.

IV. Investigation and Confidentiality

All complaints of discrimination and harassment will be investigated in accordance with this policy, and the University will take disciplinary or other action where it deems appropriate. The University will take efforts to preserve an individual's privacy and protect the confidentiality of information when investigating a complaint; however, the University cannot guarantee confidentiality to those who make complaints.

In the event a complainant requests confidentiality or asks that a complaint not be investigated, the University will take steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, the University's ability to respond may be limited. The University reserves the right to initiate an investigation and take action despite a complainant's request for confidentiality in limited circumstances involving a potential crime, serious or repeated harassment or where the alleged perpetrator may pose a continuing threat to the University Community.

V. Resolution

After investigating a complaint, the University will take action it deems to be appropriate, including corrective and remedial action. Students, faculty and staff may be subjected to discipline, up to and including written reprimand, probation, suspension, demotion, termination, or expulsion. Affiliates and program participants may be removed from the University's programs and/or prevented from returning to campus. Remedial steps may also include counseling for the complainant; academic, work, transportation, or living accommodations for the complainant; separation of the parties; and training for the alleged bad actor and other persons.

VII. Freedom of Speech and Academic Freedom

While discrimination and harassment can include verbal and written conduct, the First Amendment to the U.S. Constitution and University policies establishing academic freedom provide significant space for individuals to express controversial views, teach controversial subjects, and engage in controversial research. As such, the offensiveness of a particular expression, course content, subject of academic inquiry, or research topic, as perceived by some, standing alone, may not be sufficient to constitute a violation of this policy. The University will apply and construe this policy consistent with the legal rights of University Community members under the First Amendment, similar Missouri state laws governing freedom of speech, and University policies governing academic freedom.

Faculty members and students should be aware that conduct occurring in the context of educational instruction may exceed the protections of free speech and academic freedom if it meets the definition of discrimination or harassment and is not germane to academic subject matter, lacks a pedagogical purpose, advances the personal interest of a faculty member or student without relating to the learning process or legitimate academic objectives, causes material adverse action against a person, reveals confidential information about a person, is defamatory or libelous, threatens physical harm or imminent violence, and/or constitutes some other category of speech that is unprotected by the U.S. Constitution or other law.

Complaint Resolution Procedures

I. Scope

These complaint resolution procedures apply to complaints alleging discrimination, harassment and/or retaliation prohibited by this policy.

II. Investigation and Resolution of the Complaint

A. Commencement of the Investigation

When a complaint is made, the Chief Human Resources Officer or the Director of Student Conduct and/or their designee (“Investigator”) will commence an investigation of the complaint. 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 this policy. Some complaints may involve a preliminary inquiry into whether the matter falls under this policy or requires referral for treatment under a different policy.

In some circumstances, the investigation may commence even if the complainant requests that the matter not be pursued. In such a circumstance, the University will endeavor 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, complainants will have the opportunity to describe their allegations and identify supporting witnesses or other evidence. The alleged bad actor will have the opportunity to respond to the allegations and identify supporting witnesses or other evidence. The Investigator will review the evidence and, depending on the circumstances, may interview others with relevant knowledge, review other documentary materials, and take any other action the Investigator deems appropriate 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 University may determine that interim remedies or protections for the parties involved or witnesses are appropriate. These interim remedies may include 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 terms of these interim remedies or protections may constitute a separate violation of this policy.

D. Findings Of The Investigation

Upon completion of the investigation, the University will inform the complainant and the alleged bad actor of the results of the investigation and, to the extent appropriate, any remedial action to be taken.

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. Any employee who is determined, after an investigation, to have engaged in discrimination and/or harassment in violation of this policy will be subject to discipline, up to and including termination of employment. Any student will who is determined,

after an investigation, to have engaged in discrimination and/or harassment in violation of this policy will be subject to discipline, up to and including expulsion.

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.

Once the University has addressed concerns raised with respect to discrimination and/or harassment, 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.

4.0 HISTORY

This policy was revised in May 2021. This policy may be revised, edited, changed or removed at any time with or without notice

5.0 RELATED DOCUMENTS

- Sexual Harassment Policy
- Whistleblower Protection Policy
- Sexual Violence/Assault Policy
- General Employment Complaint Policy
- Faculty Handbook Grievance Procedure