POLICY PROHIBITING DISCRIMINATION, HARASSMENT, AND RETALIATION

I. Policy Statement

Whitworth University has an affirmative duty to maintain a work and study environment free from discrimination, harassment, and retaliation of any kind. Whitworth University will not tolerate discrimination, harassment, or retaliation since these behaviors would be in violation of the standards of the Whitworth community. The University will take positive action where necessary to eliminate such practices or remedy their effects. Discrimination, or harassment on any of the bases covered by state or federal anti-discrimination statutes, including race, color, religion, sex, national origin, disability, age or any other applicable statutorily protected status are unlawful and a violation of Whitworth University policy; as a religious educational institution affiliated with the Presbyterian Church (PCUSA), Whitworth University reserves the right to hire employees who share a commitment to the Christian faith.

The essential importance of academic freedom is recognized and a standard of reasonableness will guide the University. Only when academic freedom is used to disguise or is a vehicle for prohibited conduct, will it be questioned. Whitworth University believes that ideas, creativity, and free expression thrive and, indeed can only exist for the entire community in an atmosphere free of discrimination, harassment, and retaliation.

For the purposes of applying this policy, discrimination, harassment and retaliation are defined below:

A. Discrimination is defined as unequal, adverse treatment of an individual because of his or her protected legal status, such as race, age, or gender. For instance, different treatment of two similar individuals with respect to pay, opportunity for advancement, or educational opportunity constitutes discrimination if the reason for the different treatment is the protected status of one of the individuals.

B. Harassment is defined as unwelcome, hostile, or inappropriate conduct directed toward an individual because of his or her protected status (for instance, persistent comments or jokes about an individual's religion, race, age, or gender). Such conduct violates University policy if it has the purpose or effect of creating an intimidating, hostile, or offensive work environment, living environment, or studying environment for the minority individual or substantially interferes with that individual's employment, living or educational environment.

C. Sexual harassment is one type of harassment. It includes any unwelcome sexual advance, request for sexual favor, or conduct of a sexual nature when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of employment or obtaining an education; or
2. submission to or rejection of such conduct by an individual is used as a factor in affecting that individual’s employment or education; or
3. such conduct has the purpose or effect of substantially interfering with an individual’s employment or education, or of creating an intimidating, demoralizing, threatening or hostile employment, living, or educational environment.
Sexual harassment, as used in this policy, includes sexual assault and sexual violence, both of which are prohibited forms of sex discrimination.

**Sexual assault** is frequently misunderstood across campuses nationally. Sexual assault occurs when a sexual act is intentional and (a) is committed by physical force, threat or intimidation; (b) ignores the objections of another person; (c) causes another’s intoxication or impairment through the use of drugs or alcohol; or (d) takes advantage of another person’s incapacitation, state of intimidation, helplessness, or other inability to consent.

**Sexual violence** (a sub-category of sexual harassment) includes “physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent.”

**D. Retaliation** is defined as adverse or negative action against an individual who has (1) complained about alleged discrimination, harassment or retaliation, (2) participated as a party or witness in an investigation relating to such allegations, or (3) participated as a party or witness in a court proceeding or administrative investigation relating to such allegations.

**II. Reprisal, Retaliation, or False Accusations**

Reprisal, retaliation, or false accusations against anyone reporting or participating or thought to have reported or participated in discrimination or harassment allegation(s) or investigation(s) is prohibited and will be treated as violation of policy, regardless of whether any discrimination or harassment is substantiated. False accusations are prohibited and will be treated as violations of this policy. Submission of a good faith complaint or report of harassment will not affect the complainant’s or reporter’s future employment, grades, educational, living, or working environment.

**III. Information and Education**

Information and education are important in preventing discrimination, harassment, and retaliation. A copy of this policy will be made available to all employees and students. Faculty, staff, and students should be regularly encouraged to participate in educational programs concerning prevention and reporting of discrimination, harassment, and retaliation. Specific training will be provided to employees in supervisory or otherwise responsible positions.

**IV. Complaint Resolution Procedures**

Whitworth University administration will develop and implement complaint resolution procedures dealing with instances of alleged discrimination, harassment, and retaliation.

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PROCEDURES FOR INVESTIGATION AND PREVENTION OF DISCRIMINATION, HARASSMENT, AND RETALIATION

I. Reporting Requirement

Whitworth University is committed to building a healthy and safe campus environment, thus members of the campus community may bring complaints or concerns about discriminatory, harassing, or retaliatory behavior to the attention of faculty, supervisors, department heads, deans, vice presidents, Student Life staff, or the Human Resources department. Any of the above to whom a complaint or concern has been reported must promptly notify associate vice president of Human Resource Services or the appropriate area vice president/designee, whether or not a formal complaint is anticipated; failure to act could be interpreted as condoning the prohibited behavior which is in violation of the University’s Policy Prohibiting Discrimination, Harassment, and Retaliation. Exceptions to this reporting requirement are the chaplain, associate chaplain, and employees of the Health and Counseling Center, who are considered confidential advisors. Discrimination, harassment, and retaliation may be reported even if the complaining employee or student is not a specifically intended target of the conduct.

II. Confidentiality

Complaints will be treated confidentially to the extent permitted by this procedure’s reporting requirements and the University’s need to thoroughly and fairly investigate and resolve the reported problem. If at all possible, especially during the investigation of the complaint, the complainant’s identity will not be disclosed without the complainant’s consent. The University may need to initiate a disciplinary action, even if the complainant does not request it, because the University has a legal obligation to resolve any reported discrimination, harassment or retaliation problem.

III. Complaint Resolution

The University is committed to prompt and fair resolution of discrimination, harassment, and retaliation complaints. The following informal and formal procedures are designed to help stop misconduct once it is reported. An informal procedure addresses the concern quickly and directly with the aim of changing the behavior; a formal procedure, also aimed at changing behavior, involves more people, requires written confidential records, and may result in disciplinary action. Selection of an informal vs. formal process resides largely with the person bringing the complaint, however the University may need to investigate regardless of which process is used. The person coming forward with a complaint may end the informal process and proceed with a formal process at any time.

Note: If a complaint of discrimination, harassment, or retaliation is filed by a student against a student, the Whitworth University Student Handbook, outlines the applicable procedures. (Copies are available from the offices of the vice president for Student Life, the associate dean of students and all resident directors).

A. Informal Complaint Process

1. Use of Informal Resolution

An informal complaint can be brought at any time. It is a voluntary method for trying to get the alleged misconduct to stop. A formal complaint can be filed at any time before, during, or after any informal process is used.
2. Resources for Informal Resolution

Informal ways of resolving a complaint are intended to stop the alleged misconduct. Options for such resolution may vary, depending upon the circumstances and on the wants and desires of the complainant; the informal complaint process therefore does not have rigid steps. The University encourages the use of the associate vice president of Human Resource Services, the executive vice president of Academic Affairs, and/or the vice president/designee for Student Life as resources on how to informally resolve allegations.

3. Examples of Informal Procedures

Informal methods might include the following: (a) talking directly with the person engaging in the alleged misconduct to say that the behavior is unwelcome; (b) using a neutral third party, such as the associate vice president of Human Resource Services, or an area vice president/designee to talk with the person engaging in the alleged misconduct; (c) writing a letter to that person, identifying what happened and how it made the complainant feel; (d) putting a copy of the University’s policy prohibiting discrimination, harassment, and retaliation into that person's mailbox; (e) using a mediator to meet with the person engaged in the alleged misconduct. Any neutral third party or mediator involved in the informal complaint resolution process is encouraged to use the associate vice president of Human Resource Services as a resource during the informal process.

B. Formal Complaint Process

1. Use of Advisors in the Process

The complainant and respondent of such complaint may each select a member of the campus community to serve as an advisor during the process of complaint handling. The advisor, on the request of the complainant or respondent, may accompany the complainant or respondent in all meetings as an observer or to provide support and assistance during the process.

2. Documented Complaint

A written complaint would normally be expected in the formal complaint process, however, if the complainant is not comfortable completing a written statement, he or she may meet with the associate vice president of Human Resource Services, or the appropriate area vice president who will interview the complainant and make a written summary of the interview, including the specific nature and effects of the conduct in question, the time and circumstances in which it occurred, and the names of other persons who may have relevant information. The complainant will have an opportunity to review, amend, and sign the statement.

Presenting the complaint as promptly as possible after the alleged discriminatory, harassing, or retaliatory behavior occurs is encouraged. Documentation must be specific enough to identify and permit communication with the party submitting it, should detail the facts upon which the complaint is based (including time, date, location, and witnesses), and should identify the person whose actions form the basis of the complaint.

The university will act, to the extent possible to protect the complainant once a complaint has been filed.
3. Investigation Team

The University president has delegated responsibility for any formal investigation of discrimination, harassment, or retaliation to the associate vice president of Human Resource Services and the appropriate area vice presidents of the University. Once a formal complaint has been received, an investigation team shall be formed, chaired by the associate vice president of Human Resource Services or an alternate administrator if appointed by the president, and including the appropriate area vice president or designee if appropriate, along with a University faculty or staff Equal Employment Opportunity (EEO) representative. The role of the complainant and respondent will determine which vice president and which EEO representative shall serve on the team. Individuals/designees and alternates charged with conducting investigations will receive appropriate training to perform their duties.

4. Fair Investigation

The investigation team shall conduct a fair and thorough investigation. In addition to meeting with the accused, the team may also meet with any other individual(s) of their choosing who may have witnessed the alleged misconduct or who could substantiate, refute, or otherwise provide information regarding the complaint. The investigation shall be conducted in a professional and timely manner. Conduct procedures will not require that the complainant be present for hearings.

5. Investigation Findings

The investigation team shall determine the extent to which there has or has not been discrimination, harassment, or retaliation and shall present these findings to the University president in writing, along with any recommended disciplinary action, if deemed appropriate. The investigation team shall provide written notification to the complainant and respondent of the results of the investigation.

6. Appeal Process

If a finding of discrimination, harassment, or retaliation is made by the investigation team, the respondent may make a written appeal to the president/designee within 5 working days after being notified of the investigation team’s conclusions. If no finding of discrimination, harassment, or retaliation is found by the investigation team, the complainant may make a written appeal to the president/designee within 5 working days of being notified of the investigation team’s conclusions. The president/designee will meet with the person making the appeal before determining to accept or reject the findings of the investigation team. Decisions of the president/designee are final and are not subject to further appeal except as provided in the Whitworth University faculty handbook.

7. Disciplinary Action

The president/designee will decide and take final action on any disciplinary action recommended by the investigation team and upheld in the appeal process, if appropriate.

8. Retaliation

Reprisal and retaliation are prohibited. Every reasonable effort will be made to protect the complainant from additional harm.
IV. Specific procedures regarding complaints of sexual assault or sexual violence:

1. If a student reports an incident of possible sexual assault or sexual violence (involving herself/himself or other Whitworth students), the university will investigate whether the incident occurred on or off-campus. This extension differs from many other areas of investigation and conduct process, where the university typically focuses solely on behavior occurring on-campus or in connection with a University-sponsored program or activity.

2. The university’s chief commitments are to take reasonable steps to (1) end the violence or other prohibited sexual conduct, (2) prevent future violence or retaliation (or other prohibited sexual conduct), (3) promote safety and (4) address the effects of the violence (or other prohibited sexual conduct).

3. Conduct procedures will protect, to the extent possible, the identity of the victim in accordance with the victim’s request, with the understanding that the University may need to take certain steps even if a victim requests that his or her identity not be revealed.

4. In cases of alleged sexual assault, sexual violence, or other forms of sexual harassment, outcomes will be based on the preponderance of evidence available.

V. Records Retention and Access

Records of complaints filed, findings and recommendations of investigating teams, and disciplinary actions will be maintained in a confidential file in the office of the associate vice president of Human Resource Services. If there is a finding of discrimination, harassment, or retaliation against an employee and disciplinary action is taken by the president/designee, the letter to the employee will be made part of that person’s permanent personnel file in the office of Human Resources and as appropriate, the office of the vice president for Academic Affairs.

VII. Outside Remedies

The right of a person to prompt and equitable resolution of complaints is not impaired by the pursuit of other remedies, such as filing a complaint with appropriate federal or state department or agencies. A person is not required to use this complaint resolution procedure before pursuing other remedies, including local law enforcement if the person believes he or she has been the victim of sexual assault or sexual violence.
A consensual romantic or sexual relationship between individuals where a power differential exists is a violation of the university’s standard of professional conduct.

Members of our campus community should realize that, if a charge of sexual harassment is subsequently lodged; it will be exceedingly difficult to prove immunity on grounds of mutual consent. Whitworth University shall be expected to be unsympathetic to a defense based on consent when the facts establish that a professional power differential existed within the relationship.

It is possible that faculty members or employees may enter into a consensual relationship with one another where no power differential exists. Subsequently, due to appointment or election to a committee or to a job promotion they may find themselves in a situation where a power differential exists. Whitworth will expect the individual in the power position to remove themselves from any deliberation, influence, or decision related to the other party.

Approved May 1, 1998.