

# APPENDIX A

## *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, 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 their 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 their 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. Specific procedures consistent with requirements of the federal Title IX of the Education Amendments of 1972 governing gender discrimination will be addressed.

*Board Approved – October 14, 2005*

*Updated as Whitworth University, August 2007*

*Revised, October 2011*

*Revised, October 2016*

# ***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 office of human resource services. Any of the above to whom a complaint or concern has been reported must promptly notify the associate vice president of human resource services or the appropriate area vice president/designee, whether or not a formal complaint is anticipated.

Exceptions to this reporting requirement are clergy and employees of the Student 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.

All Whitworth employees, except those identified as confidential employees are mandatory reporters for **potential Title IX violations**, including sexual harassment, sexual assault, sexual violence, domestic violence, dating violence, bullying or stalking, and must be promptly reported to Whitworth’s Title IX coordinator, Rhosetta Rhodes at [titleixcoordinator@whitworth.edu](mailto:titleixcoordinator@whitworth.edu) or [509.777.4536](tel:509.777.4536).

Failure to promptly report as noted in this procedure could be interpreted as condoning the prohibited behavior which is in violation of the university's Policy Prohibiting Discrimination, Harassment, and Retaliation.

## **II. Confidentiality**

Complaints will be treated privately to the extent permitted by this procedure's reporting requirements and the university's need to thoroughly and fairly investigate and resolve a reported problem. Confidentiality may not be possible, depending upon the nature of the complaint. The investigative process will protect, to the extent possible, the identity of the complainant in accordance with the complainant's request, with the understanding that the university may need to take certain steps even if a complainant requests that their identity be protected. Anonymous reports may be made but will also limit the ability of the university to investigate and respond. All anonymous reports will be tracked and investigated to the extent possible based on the information provided.

The university will act, to the extent possible, to protect the complainant once a complaint has been filed. The university may need to initiate an investigation and 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.

## **III. Federal Timely Warning Reporting Obligations**

Those who report incidents of misconduct should be aware that university administrators must issue immediate, timely warnings for reported incidents that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The university will make every effort to ensure that identifying information, including the reporter's name, is not disclosed. Whitworth will, however, provide enough information for community members to make safety decisions in light of the potential danger.

## **IV. Investigation of Title IX Allegations**

The university's chief commitments are to take reasonable steps to

- (1) end the violence or other prohibited sexual conduct,
- (2) prevent its recurrence, and
- (4) remedy its effects on the complainant and the university community.

### **A. Use of Advisors**

The complainant and respondent of such complaint may each select an advisor of their choosing to accompany and assist throughout the university's process. An outside advisor may be selected but will not be trained in university procedures. The advisor may be a friend, parent, faculty mentor, coworker, attorney or any other person. The advisor will not be permitted to advocate for the complainant or respondent in the process, or to have any role in the process other than to advise and assist.

### **B. Documented Complaint**

A written complaint is normally expected in a Title IX complaint process, however, if the complainant is not comfortable completing a written statement, they may meet with the Title IX coordinator or designee 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.

### **C. Investigation Team/Investigators**

Investigator/s will be trained in Title IX requirements. Investigations should be impartial, thorough, and reliable.

#### **D. Timeline**

The university will complete its investigation as soon as is reasonably possible under the circumstances, typically within no more than 60 days.

#### **E. Investigation Guidelines**

Although these steps may be combined or eliminated depending on the specifics of the situation, guidelines investigators are likely to take include:

- Conducting a preliminary investigation to determine whether there is reasonable information to charge the accused individual, and determining which policy violations should be alleged as part of the complaint.
- If there is insufficient information to support a policy violation, closing the preliminary investigation with no further action.
- Informing the respondent (accused individual) of the investigation and providing a notice of charges, if appropriate, on the basis of the initial investigation.
- Commencing a thorough, reliable, and impartial investigation.

#### **F. Findings**

Using a preponderance of the evidence standard, the investigator/s shall determine the extent to which there has or has not been a Title IX violation and shall present these findings to the Title IX coordinator/designee in writing, if deemed appropriate. Preponderance of the evidence is defined as whether a policy violation is *more likely than not* to have taken place. The investigator/s shall provide written notification to the complainant and respondent of the results of the investigation.

#### **G. Disciplinary Action**

The Title IX deputy coordinator/designee, in consultation with the area vice 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.

#### **H. Appeal**

If a finding of sexual misconduct is made by the investigator/s, the respondent may make a written appeal to the Title IX coordinator/designee within 5 working days after being notified of the investigation team's conclusions. If no finding of misconduct is found by the investigator/s, the complainant may make a written appeal to the Title IX coordinator/designee within 5 working days of being notified of the investigator's conclusions. The Title IX coordinator/designee will meet with the person making the appeal before determining to accept or reject the findings of the investigator/s. Decisions of the Title IX coordinator/designee are final and are not subject to further appeal except as provided in the Whitworth University Faculty Handbook.

#### **I. Records Retention and Access**

Records of all Title IX complaints filed under this policy, findings and recommendations of investigators, and disciplinary actions will be maintained in a confidential file in the office of the Title IX coordinator. If there is a finding of discrimination, harassment, or retaliation against an employee and disciplinary action is taken, the letter to the employee will be made part of that person's permanent personnel file in the office of human resource services and as appropriate, the office of the vice president for academic affairs.

#### **V. Complaint Resolution for Other Than Title IX Allegations**

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. Selection of an informal vs. formal process resides largely with

the person bringing the complaint, however the university may need to investigate regardless of the wishes of the complainant, depending upon the severity of the alleged conduct. 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 is a voluntary method for trying to get the alleged misconduct to stop. A formal complaint may be filed at any time before, during, or after any informal process is used.

Title IX sexual harassment/assault complaints may be resolved using informal processes, such as mediation, if agreed to by both parties and with the agreement of the Title IX coordinator.

### **2. Resources for Informal Resolution**

Informal ways of resolving a complaint other than Title IX complaints are intended to stop the alleged misconduct. Options for such informal 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 complaints.

### **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 should contact the associate vice president of human resource services /designee as a resource during the informal process.

## **B. Formal Complaint Process**

### **1. Use of Formal Complaint Process**

A formal complaint may be filed at any time before, during, or after any informal process is used.

The Title IX complaint resolution process is addressed in Section IV of this document.

### **2. 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.

### **3. Documented Complaint**

A written complaint is normally expected in the formal complaint process, however, if the complainant is not comfortable completing a written statement, they may meet with the associate vice president of human resource services, or the appropriate area vice president/designee 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 from adverse action once a complaint has been filed.

### **4. 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/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 charged with conducting investigations will receive appropriate training to perform their duties.

### **5. Fair investigation**

The investigation team shall conduct a fair and thorough investigation. In addition to meeting with the respondent, 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.

### **6. 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/designee 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.

## **7. Disciplinary Action**

The area vice president/designee, in consultation with the associate vice president for human resource services/designee, will take final action on any disciplinary action recommended by the investigation team and upheld in the appeal process, if appropriate.

## **8. 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.

## **9. Records Retention and Access**

Records of complaints filed, findings and recommendations of investigator/s, 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, the letter to the employee will be made part of that person's permanent personnel file in the office of human resource services and as appropriate, the office of the vice president for academic affairs.

## **VI. Retaliation**

Reprisal and retaliation are prohibited. Every reasonable effort will be made to protect the complainant from additional harm.

## **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 departments 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 they have been the victim of sexual assault or sexual violence.

Individuals have the right to file a formal complaint with the U.S. Department of Education:

Seattle Office for Civil Rights	Telephone: 206.607.1600
U.S. Department of Education	FAX: 206.601.1601
915 Second Avenue Room 3310	TDD: 206.607.1647
Seattle, WA 98147-1099	
Email: <a href="mailto:ocr.seattle@ed.gov">ocr.seattle@ed.gov</a>	