

The University of Arkansas at Pine Bluff

Faculty/Staff Handbook

Policy: POLICY STATEMENT ON NON-DISCRIMINATION/AFFIRMATIVE ACTION

Policy #: 3.0

Policy and Procedure on Complaints of Discrimination and Harassment

I. Policy Statement

The University of Arkansas at Pine Bluff is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination. Such an environment is necessary for healthy learning, working, and living atmosphere. The University expects students, applicants for admission, employees, applicants for employment, affiliates, subcontractors, on-site contractual staff, community members, and visitors to uphold the University's commitment to nondiscrimination and harassment by conducting themselves in a manner that is appropriate and consistent with this policy. Accordingly, all acts of discrimination, harassment, and retaliation are prohibited. The University will take prompt and equitable action in response to complaints about such conduct.

II. Policy Scope and Relationship to Title IX

"Discrimination" under this policy refers to action or conduct that (1) is based on race, color, sex, religion, national origin, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, pregnancy, physical or mental disability, gender identity, sexual orientation, or genetic information and (2) materially affects a term or condition of an individual's employment, education, living environment, or participation in a program or activity.

"Harassment" under this policy means detrimental action or a course of conduct that is based on one of the foregoing categories and that is sufficiently serious (i.e., severe and/or pervasive) and objectively offensive to deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities or when such conduct has the purpose or effect of unreasonably interfering with an individual's employment.

Reports and complaints regarding sexual harassment, sexual assault, relationship violence, stalking, and similar conduct should first be made to the Title IX Coordinator under the University's separate policy on sexual assault and harassment. Other forms of discrimination and harassment may be the subject of an initial complaint under this policy. In addition, this policy may be used to address complaints of sexual harassment or assault that may negatively affect the campus community but are dismissed by the Title IX Coordinator based on lack of jurisdiction. In such situations, the appropriate office will have discretion on whether to commence an investigation under this policy.

III. Offices Hearing Complaints

The Department of Human Resources is responsible for investigating complaints of discrimination and harassment against faculty, staff, and administrative employees. The Office of the Dean of Students

is responsible for investigating complaints of harassment and discrimination against students. A complaint to the appropriate office, using the Complaint Form, should be made within 30 days of the act of discrimination or harassment. The time limit may be waived or extended by the Department of Human Resources or the Office of the Dean of Students if a good cause is demonstrated.

IV. Investigation

After receiving the complaint, the appropriate office will explore whether the matter can be resolved informally, without disciplinary action or a finding that discrimination or harassment has occurred. If the issue can be resolved informally, no further action will be taken.

If the complaining party chooses to proceed with a formal complaint, the individual against whom the complaint is filed (i.e., the “respondent”) will be instructed to provide a written response to the allegations within 5 working days of the request. The matter will then be investigated promptly.

After the investigation, the investigating officer will issue a written determination of responsibility and provide the decision to the complaint and respondent. The determination shall also identify any sanctions or remedies that the investigator believes should be imposed. In the case of employee-respondents, the proposed sanctions and remedies shall serve as a nonbinding recommendation to the appropriate campus administrator.

The institution reserves the right to address, as an administrative matter, conduct that does not constitute a violation of this policy but is inappropriate in a professional work or educational environment.

V. Appeal

If a student-respondent is dissatisfied with the decision, the respondent may request that the Dean of Students convene a hearing. The request for a hearing must be made within 5 working days of the decision. After receiving the request, the Dean of Students will promptly schedule a hearing that generally follows the procedures used for cases of student misconduct.

If an employee-respondent is dissatisfied with the decision, the respondent may appeal the matter to the Chancellor or his/her designee. A respondent who chooses to appeal must, within 5 working days of receiving the decision, deliver a written statement to the Chancellor or designee that concisely explains why the decision should be overturned or modified. The Chancellor or his/her designee may elect to convene a committee to review the allegations, consider the evidence, and make a recommendation; alternatively, the Chancellor or designee may decide the matter in the absence of a committee. The final decision shall be rendered as soon as practicable and ordinarily no later than 10 working days after receiving the written appeal.

VI. Emergency removal and administrative leave

Emergency Removal: If, after the Behavioral Intervention Team undertakes a safety and risk analysis, the University determines that the respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment, it may remove the respondent from the University's programs or activities. In such instances, the respondent will be provided with written notice of the reasons for the removal. Within 5 days of

receiving the notice, the respondent may challenge the decision by requesting a meeting with the Vice-Chancellor for Student Affairs.

Administrative leave: Nothing in this policy precludes the University from placing a non-student employee respondent on administrative leave during the pendency of the grievance process.

VII. Retaliation

It is a violation of this policy to take any action against an individual because that person has opposed any practices forbidden by this policy or because that person has filed a complaint, testified, assisted, or participated in an investigation or proceeding under this policy. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's opposition, complaint, or participation. Adverse action is retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

VIII. Confidentiality

The University requests confidentiality from all parties and witnesses involved in an investigation. During an investigation, it may be necessary for the investigator to provide details to individuals with a legitimate need to know about the allegations. This may include (1) information provided to respondents to allow them to fully respond to the allegations, (2) information provided to witnesses or other people with whom investigators communicate to obtain or verify information; (3) where appropriate, the information provided to management during or following an investigation to allow any necessary actions to be taken. In addition, the identity of the investigation participants and the details of the investigation may become known for reasons outside the control of the investigator.

VIII. False Reports

Willfully making a false report of discrimination (including discriminatory harassment) is a violation of University policy and is a serious offense. Any person who willfully makes or participates in making a false report under this policy may be subject to disciplinary action up to and including termination or expulsion.

IX. Training

All new employees should receive training on preventing, reporting, and addressing discrimination (including discriminatory harassment) within 30 days of beginning employment or enrollment. Employees must receive refresher training at least every two years.

X. EEOC and NSF Reporting

Although complainants are encouraged to resolve their grievances related to discrimination by utilizing this policy, they may have the right to file a complaint directly with the appropriate agency. The contact information for the EEOC and NSF are as follows:

Equal Employment Opportunity Commission (EEOC)

820 Louisiana St., Suite 200

Little Rock, AR 72201

Toll Free: 1-800-669-4000

Telephone: 501-324-5060

TTY: 800-669-6820

Fax: 501-324-5991

National Science Foundation (NSF)

Office of Diversity and Inclusion

2415 Eisenhower Ave.

Alexandria, VA 22314

Telephone: 703-292-8020

Fax: 703-292-9072

Email: programcomplaints@nsf.gov