

Affirmative Action/Equal Opportunity Policy

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Purpose and Scope

Affirmative Action

West Chester University is committed to providing leadership in extending equal opportunities to all individuals. Accordingly, the University will make every effort to provide these rights to all persons regardless of race, religion, sex, national origin, ancestry, age, sexual orientation, gender identity, disability, and veteran status. This policy applies to all members of the University community including students, faculty, staff and administrators. It also applies to all applicants for admission or employment and all participants in University-sponsored activities.

Equal Opportunity

To achieve our educational mission, West Chester University is committed to creating pluralistic learning communities. As an equal opportunity employer, we comply with federal and state laws and regulations, while demonstrating our commitment to equal opportunity for all persons and not discriminating on the basis of race, color, sex, pregnancy, gender identity or expression, sexual orientation, age, national origin, disability, religion, veteran status, genetic information or legally protected statuses in all aspects of employment.

Policy Statement

It is a violation of policy for any member of the University community to discriminate any other member of the University community on the basis of race, color, sex, pregnancy, gender identity or expression, sexual

UNIVERSITY POLICY

orientation, age, national origin, disability, religion, veteran status, genetic information or legally protected statuses, or to take retaliatory action against an individual for reporting discriminatory conduct.

All management and supervisory personnel are directed to adhere to our policy of Affirmative Action and to take positive, aggressive steps to ensure equal opportunities. Specifically, this means that management and supervisory personnel guard against unlawful discrimination in any personnel action, including but not limited to recruitment, appointment, promotion, training, separation, or terms of employment. Furthermore, management and supervisory personnel must take affirmative action to improve our utilization of those persons underrepresented.

Policy Framework

All managers and supervisors have responsibility for actively initiating this policy, which will include input into the development, implementation, and monitoring of the University's Affirmative Action Plan and Diversity/Equity Plans. In accordance with Executive Order 1979-15, "Performance evaluations for all supervisory and management employees shall include a rating of affirmative action, based on objective criteria regarding their implementation of the Affirmative Action Program." Each individual at West Chester University is expected to help make affirmative action-equal opportunity a reality for all persons. West Chester University will take all necessary steps to:

1. Recruit, hire, utilize, train and promote for all job classifications without regard to race, religion, sex, national origin, ancestry, age,

— UNIVERSITY POLICY —

sexual orientation, gender identity, disability, veteran status, or other protected class status.

2. Recruit and admit students without regard to race, religion, sex, national origin, ancestry, age, sexual orientation, gender identity, disability, veteran status, or other protected class status.
3. Base decisions on selection, employment practices, employee utilization, job training, career mobility, promotion, program operations and services provided so as to further the principles of equal opportunity and affirmative action.
4. Create and maintain a climate free from discrimination and harassment of any individual.
5. Create and maintain a climate free from sexual harassment of any individual.
6. Make every effort to increase the admission and employment opportunities for qualified persons with disabilities.
7. Assure that reasonable accommodation will be made for all the physical and mental limitations of qualified individuals.
8. Assure that in offering employment or promotion to persons with disabilities, no reduction in compensation would result because disability, income or other benefits.

All members of the West Chester University community must work collectively to prevent discrimination or harassment by proactively engaging in training and educational opportunities to stay informed of University policies and protocols, as well as implementing initiatives to eliminate inequities and resolve issues that may occur.

UNIVERSITY POLICY

This policy is not intended to interfere with the protections afforded by law to freedom of speech. Additional information, including additional examples of what constitutes discrimination, is available from the Office for Diversity, Equity and Inclusion.

Procedures

Overall responsibility for the implementation of the affirmative action-equal opportunity policy has been assigned to the Office for Diversity, Equity and Inclusion. Any individual having suggestions, problems, complaints, or grievances with regard to equal opportunity or affirmative action is encouraged to contact the office at 114 W. Rosedale Avenue or by phone at 610-436-2433. All procedures may be performed virtually.

In the event that a member of the West Chester University Community feels that he or she has been the subject of discrimination on the basis of race, religion, sex, national origin, ancestry, age, sexual orientation, gender identity, disability, or veteran status which is a violation of the University's Affirmative Action - Equal Opportunity Policy Statement, the matter should be brought to the attention of the Office for Diversity, Equity and Inclusion.

The Complaint Process

In order to process an allegation of discrimination, the individual must process the complaint through the Office for Diversity, Equity and Inclusion.

Employees, whether Complainants or Respondents, have the right to be assisted in all aspects of the complaint procedure by their union

representative. If an employee elects to be represented by his or her union, the union will receive copies of all written notifications. Employees equally have the right not to be represented by their union. This decision rests solely with the employee. The role of the representative is limited to the advice and counsel of their principals only. Representatives cannot question, answer, or provide advice during an interview or hearing. However, parties can request a brief recess to consult their representative.

Complaints should be filed up to 180 days after the alleged act or behavior. However, it is in the best interest of all to conduct a timely review of the circumstances of the alleged harassing behavior; accordingly, complainants are urged to file complaints as soon as possible. Complaints should be filed up to 180 days after the alleged act or behavior. However, it is in the best interest of all to conduct a timely review of the circumstances of the alleged harassing behavior; accordingly, complainants are urged to file complaints as soon as possible. The complainant also has the option of pursuing formal complaints through the following public agencies responsible for enforcing the laws against sexual harassment within the time frames listed:

- PA Human Relations Commission (215) 560-2496 180 days
- U.S. Dept. of Education, Office for Civil Rights (215) 656-8541 180 days
- Equal Employment Opportunity Commission (215) 440-2600 300 days

Initiating a Complaint

The process is initiated when the Director for Equity and Compliance receives a complaint or report of a violation of WCU policy relating to discrimination of any type. The Complainant will provide a written

— UNIVERSITY POLICY —

statement to the Director with sufficient factual information to permit the Director to make an initial assessment of violation. The Director will determine if any supportive measures should be applied. Following the initial assessment, the Director may take any of the following actions:

- If the Director determines that the complaint, even if substantiated, would not rise to the level of a policy violation; the nature and circumstances of the report do not make it appropriate for an investigation; or, after consultation with the Complainant about the Complainant's preferences regarding participation, the Director determines that there will be insufficient information to investigate the matter, the Director may dismiss the complaint. The Complainant will be advised of the dismissal and of any other recourse that might be appropriate.
- If the Director determines that the complaint is outside the scope of the discrimination policies and/or most appropriately handled by another office, the Director may refer the complaint to another office for review.
- If the Director determines that the complaint or report would, if substantiated, constitute a violation of policy, the Director will advise the Complainant of the types of processes available.
- If the Complainant chooses not to move forward with either process, or if the Complainant is anonymous, the Director may notify the Respondent of the information reported and the possible repercussions if a formal complaint is brought

— UNIVERSITY POLICY —

forward. The Director may schedule a meeting with the Respondent (and their representative, if desired by the Respondent) to pass on this information, answer questions, and provide assistance. The Director may recommend voluntary training for an individual or a work unit. The reported information will be maintained by the Office for Diversity, Equity and Inclusion for a period of 7 years. However, no written record will be forwarded to a student's education file or to an employee's official personnel file.

In recognition of the dignity and reputation of all, it is the intent of the University employees officially involved in the proceedings or investigation to preserve the confidentiality of complaints and all proceedings. Disclosure of the complaint will be limited to individuals who, in the interest of fairness and problem resolution, have a need to know. The Complainant and Respondent are encouraged to maintain confidentiality consistent with the intent of the University.

Notification Procedure

If a Student is the Respondent, the Director for Equity and Compliance will contact the accused to notify them of the complaint and to arrange a meeting to inform him or her of the process. If a student organization is the Respondent, the procedures for notification outlined in the Student Code of Conduct will be followed.

If an Employee is the Respondent:

1. If the complainant is a student enrolled at the time in the class of the accused, he or she may request that notification and

mediation be delayed until after the completion of the semester.

2. The Director for Equity and Compliance will send notification to the Provost's office (for faculty) or Division Head (for other staff).
3. The Provost or Division Head will send a notification letter to the Respondent with a copy of the complaint.
4. After the notification has been sent to the employee, the Director for Equity and Compliance will contact the Respondent and arrange a meeting to discuss the complaint and procedures. An employee may be accompanied by their union representative at this initial meeting. When a formal investigation is to be conducted against a faculty member, Article 42 of the APSCUF collective bargaining agreement will also govern.

Investigations may take place at any time in the resolution process after notification to the respondent at the discretion of the Director for Equity and Compliance. The fact-finding procedure is not intended to interfere with any legal rights an employee or student has under the statutes and other laws of the Commonwealth of Pennsylvania or the government of the United States of America, or an employee's collective bargaining agreement.

Choice of Process by Complainant

There are two types of complaint-resolution mechanisms: a formal process that involves investigation and possible conduct proceedings, and an informal process that may or may not involve

investigation and less formal procedures. The complainant initiates the formal or informal process, with the concurrence of the respondent, after filing a written complaint with the Office for Diversity, Equity and Inclusion.

Informal Process

The informal process includes efforts to mediate a resolution upon which both the complainant and the individual accused can agree.

Upon receipt of the complaint, notification to the accused of the allegations, the complainant's desire for mediation, and the accused's concurrence to the informal process, the Director for Equity and Compliance may facilitate a resolution or appoint a mediator(s) and notify the parties of the mediator(s) identity. Mediation occurs by mutual consent, therefore, at any stage of the mediation process either party has the opportunity to withdraw from the informal process.

1. At the mediation, the mediator will share the investigative report, if one has been completed. The mediation may be conducted by separate discussions with the parties or in meetings with both parties present, depending on the circumstances and the mediator's best judgment.
2. If either party chooses to withdraw from the mediation process, the Director for Equity and Compliance will move forward with the formal complaint process.

3. At the conclusion of the mediation, the mediator(s) will provide a written statement of the resolution agreed to by both parties to the Director for Equity and Compliance. The informal resolution process may recommend the following types of outcomes, where appropriate: facilitating an agreement between the parties, separating the parties, referring the parties to counseling programs, conducting targeted educational and training programs, and mediation.
4. If the parties involved in the informal resolution process fail to reach a mutually agreeable outcome for the alleged conduct, the allegation will be resolved via the formal investigation process.
5. The Director for Equity and Compliance will send a written summary of the outcome to the parties.
6. If the Director for Equity and Compliance makes a determination that there is a need, the formal process may be initiated on behalf of the University at any time.
7. All written summaries of the informal complaint process will be maintained by the Office for Diversity, Equity and Inclusion for a period of 7 years. No written record will be forwarded to the employee's official personnel file and for employees who are respondents, a successful informal resolution will not result in disciplinary proceedings. For students who are respondents, the matter may be forwarded to the Office for Student Conduct.
8. Completed informal resolutions are binding and may not be appealed.

Formal Process

A complainant may initiate formal procedures. Formal procedures, which may result in a disciplinary proceeding, include a fact-finding and review process.

After accepting a written formal complaint, the Director for Equity and Compliance will appoint a fact finder. When appropriate, as determined by the Director, two fact finders may be assigned to a case. The parties will be notified of the fact finder's identity. Fact finders are specifically trained and impartial faculty or staff. The fact finder's role is to investigate complaints and make findings of fact pertaining to the complaint.

1. The investigation generally includes interviews with the parties, any relevant witnesses, and a review of relevant documents (text messages, emails, etc.). Participants in an investigation are advised that maintaining confidentiality is essential to protect the integrity of an investigation. At any time during the investigation, the investigator may recommend to the Director for Equity and Compliance that interim measures be provided to the Complainant, Respondent or witnesses. Violations of these interim measures may be considered a separate violation of policy.
2. For investigations that do not involve sexual misconduct, investigative interviews (and pre-disciplinary conferences) are internal matters which do not provide for participation of external legal representatives. Employees whose positions are

— UNIVERSITY POLICY —

covered by collective bargaining units, however, may request advocacy from their respective unions.

3. During an investigative interview, the interviewee is expected to answer the questions, not his or her representation.
4. The investigator(s) will take notes during the interview and provide each participant with a summary of the interview for the purpose of review. Any substantive changes to the content after the review by the participant may be noted in the final report.
5. The investigation shall be completed as promptly as possible, and in most cases within fifty (50) business days of the date of the formal complaint was filed. A total of two attempts (by email, text, or phone) will be made to schedule investigative interviews. Failure to respond to scheduling requests will result in proceeding with the investigation without input from that individual.
6. At the conclusion of the investigation, the investigator will prepare a written report that includes a statement of the allegations and issues, identification of facts, reviewed evidence, a determination of whether the alleged actions may have violated University policy using the preponderance of evidence standard, and any recommendations.
7. The fact finders will submit a report of their findings to the Director for Equity and Compliance. The Director will formulate an opinion as to whether there has been a violation of the University's Affirmative Action - Equal Opportunity Policy which prohibits discrimination.

— UNIVERSITY POLICY —

If it is the opinion of the office that there is not enough evidence to warrant a finding of discriminatory conduct, the complainant and the accused will be so notified and the case will be closed. The Office for Diversity, Equity and Inclusion however, maintains the right to refer the case to other appropriate University officials if it appears that there may be violations of University's Misconduct Policy or other University policies that do not constitute discrimination.

If it is the opinion of the Director for Equity and Compliance that there is reasonable cause to believe that the University's Affirmative Action-Equal Opportunity Policy has been violated, the office will forward the fact-finders' report and the Director's opinion to the appropriate manager. Copies of these documents will also be provided to the accused.

The Director for Equity and Compliance will forward the investigative report and the Director's opinion to the appropriate manager (for employee respondents) or to the Office of Student Conduct (for student respondents), who will follow their disciplinary procedures.

For student respondents, the procedures followed are outlined in the Student Code of Conduct.

For employee respondents, the manager will utilize the existing University pre-disciplinary conference procedures ensuring that the accused employee has the opportunity to be represented, if so desired, by his or her union representative during the pre-disciplinary conference. At the pre-disciplinary the accused will have an

UNIVERSITY POLICY

opportunity to rebut the findings of the fact finders' report, and the opinion of the Director for Equity and Compliance. After completing the pre-disciplinary conference, the manager in consultation with the Associate Vice President for Human Resource Services and other University officials, as needed, will determine if discipline is appropriate and what level of discipline should be imposed. Possible disciplinary actions for violation of the University's Affirmative Action - EEO Policy include oral or written reprimand, suspension, or termination of employment. The manager is not bound by the opinion of the Director for Equity and Compliance and reserves the right to make his or her own final determination. Disciplined employees will have the right to appeal and/or grieve management's decision to the extent provided in the appropriate policy and/or collective bargaining agreement.

The complainant will receive notification of the final disposition of the complaint. If the complainant finds the resolution or disciplinary action unsatisfactory, he or she may pursue the complaint with the appropriate external agencies.

References

This policy is in compliance with federal and state laws, including Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendment of 1972, Section 504 of the Rehabilitation Act of 1972, Americans With Disabilities Act of 1972, Americans With Disabilities Act of 1990 and Executive Orders of the Governor of Pennsylvania.

— UNIVERSITY POLICY —

The Office for Diversity, Equity and Inclusion is a resource for you if you have questions or concerns related to equal opportunity, equity or compliance with federal, state and local laws related to civil rights. This includes, but is not limited to ADA accommodations, protected classes, and discrimination and harassment prevention and response.

Reviewed by: Office for Diversity, Equity and Inclusion

Policy Owner: Chief Diversity and Inclusion Officer

Approved by:



John Villella, Ed.D

Vice President of University Affairs and Chief of Staff

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