

The University of Scranton

Non-Discrimination and Anti-Harassment Policy

Executive Sponsor: Provost
Responsible Office: Office of Equity and Diversity
Review of this policy on three-year cycle
Effective Date: June 11, 2020; August 1, 2024
Emergency Approval: July 18, 2024

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best way to address immediate safety concerns while allowing for the preservation of reporting options.

VI. Reporting:

A. Generally:

1. The procedures set forth below are internal administrative procedures of the University. As to those forms of discrimination or harassment that violate state or federal law, an aggrieved party may also file a complaint with appropriate local, state or f

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4. *Online Reporting*

The Office of Equity and Diversity reporting program allows students, employees or other third parties to file reports on-line. *Website:* <https://scranton.i-sight.com/external-capture> Emergency or crisis reports should be made to law enforcement as this website is NOT monitored 24 hours a day.

Anyone, except mandated reporters can make an anonymous report through the online reporting program at any time. Depending on the nature of the information provided, the University's ability to respond may be limited. For example, if the Complainant is not identified in the report, it may not be possible to contact the Complainant to offer supportive measures and to explain the Complainant's process options.

VII. Privacy and Confidentiality

The University encourages the reporting of all incidents under this policy and is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report. The University also is committed to providing assistance to help individuals make informed choices. With respect to any report under this Policy, the University will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal laws, while balancing the need to gather information to assess the report and to take legally-allowable steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects.

Privacy and confidentiality have distinct meanings under this Policy:

Privacy: Privacy means that information will be shared only with University employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. Further, the University will maintain as private any accommodations or supportive measures provided to the extent that maintaining such privacy would not impair the University's ability to provide the accommodations or supportive measures. For example, the existence of an academic accommodation must be revealed to a faculty member who must implement the accommodation.

Confidentiality: Confidentiality exists in the context of laws that protect certain relationships, including with legal, medical, and clinical care providers, mental health providers, and ordained clergy in their pastoral capacity, all of whom may engage in confidential communications under Pennsylvania law. The University has designated individuals who have the ability to have privileged communications as "Confidential Employees". When information is shared by an individual with a Confidential Employee, the Confidential Employee will not reveal the information except when 0.005pcttheir o

VIII. Resource and Supportive Measures

Various resources are available for individuals who have experienced discrimination. Regardless of

X. Privileged Information and Previous Sexual History for Sex Based Matters

The sexual history of a Complainant or Respondent cannot be used as evidence of their character or reputation. An investigation may consider prior or subsequent sexual history, if it is offered, to provide evidence that someone other than the Respondent committed the alleged conduct, or if the evidence concerns specific incidents of the Complainant's sexual history with respect to the Respondent and is offered to prove consent.

Moreover, any records that are made or maintained by a medical professional or and records recognized by Federal or State law as privileged may not be used as evidence unless the University obtains the person's voluntary and written consent.

XI. The University of Scranton as Complainant

There are instances when a member of the University community observes (has direct knowledge) or is told of (has indirect knowledge) of behavior in violation of this policy. In those situations or where the individual complainant refuses to pursue the complaint, and the seriousness of the allegation requires further action, the University shall serve as complainant, and the Executive Director or designee will investigate or appoint an investigator. If there is an allegation that the President, Executive Director, or a member of the Board of Trustees be alleged to be in violation of this policy, the Executive Director will request the University's General Counsel to engage independent legal counsel to investigate the allegation.

XII. Procedures for Review, Voluntary Resolution and Investigation of Complaints under the Non-discrimination and Anti-harassment Policy are contained in Appendix D and E.

XIII. Knowingly False or Malicious Complaints

If, after the investigation, it is discovered that the complaint was knowingly false or filed with malicious intent, the complainant will be referred to the appropriate University office for disciplinary review.

XIV. Non-Retaliation Statement

Retaliation against anyone reporting or thought to have reported harassing or discriminatory behaviors or who has participated in a University or external investigative process in relation to such a report is strictly prohibited. Such retaliation shall be considered a violation of this policy, independent of whether a complaint of harassment or discrimination has been substantiated. Anyone who believes they have been retaliated against for participating in this process in any capacity should report the matter promptly to the Executive Director or designee. Reports and complaints of retaliation will be investigated and dealt with as any other report and complaint brought under this policy.

XV. Complaints against Guests, Visitors or Other Non-University Employees or Non-University Students:

All reported violations attributed to visitors, guests or other non-university employees or non-university students will be reviewed by the Executive Director or designee, who will determine if any remedy is appropriate. In situations when the accused is on campus as a result of their employment with a third party, their employer will be notified. The University will notify the educational institution of any student visitor accused of violating this policy.

XVI. Filing Complaints with External Agencies

Complaints of harassment or discrimination may also be filed with the appropriate state or federal

agency having jurisdiction over the subject matter. Individuals seeking to file such a complaint should familiarize themselves with filing deadlines and procedures by contacting the appropriate agency. These agencies include:

The Pennsylvania Human Relations Commission <http://www.phrc.state.pa.us>

The Equal Employment Opportunity Commission <http://www.eeoc.gov>

The Office of Civil Rights-Department of Education <http://www2.ed.gov>.

Although not required, members of the University community who wish to file a complaint with an external agency are encouraged to contact the Office of Equity and Diversity prior to filing a complaint in order to allow the University the opportunity to investigate allegations of discriminatory and/or harassing behavior, and attempt to remedy the situation and provide disciplinary/corrective action in a timely manner.

XVII. Records and Files

The results of a complaint, investigation, or resolution processes, if sanctions are imposed, will be placed in the respondent's file. In the case of employees, this will be their official personnel file and in the Office of Equity and Diversity. In the case of students, this will be their disciplinary record. If no sanctions are imposed, a record of the complaint and disposition will be kept in the confidential files of the Office of Equity and Diversity in accordance with the University of Scranton Records and Retention Policy.

XVIII. Related Documents, Forms, and Tools

University Policies:

The Student Handbook: <https://catalog.scranton.edu/index.php?catoid=45>

The Student Code of Conduct:

<https://www.scranton.edu/studentlife/studentaffairs/studentconduct/standardsconduct.shtml>

Staff and Administrator Handbook: <https://www.scranton.edu/hr/employee-handbook-and-policies.shtml>

Appendix B: Statement on Academic Freedom with Respect to The University's Nondiscrimination and Anti-Harassment Policy

In recognition and support of academic freedom for faculty in the pursuit of teaching, in accordance with paragraph 5.3 of the Faculty Handbook, academic freedom shall be considered in investigating and reviewing complaints and reports of discrimination an

Appendix C: Rights of Complainants and Respondents

Appendix D: Procedures for Review and Investigation of Complaints under the Non-Discrimination and Anti-Harassment Policy

A. Preliminary Review:

1. Upon the receipt of a report, the Office of Equity and Diversity will e-mail the complainant and invite them to meet upon receipt of a report to review the policy, resources and supportive measures, and the options of a voluntary resolution and/or formal investigation process.

2. The complainant will be requested to put the complaint in writing if they wish to proceed with the voluntary resolution process or the formal investigation process. The failure of the complainant to put the complaint in writing does not relieve the University from its obligation to act in accordance with legal requirements in response to the information provided by the complainant.

3. Upon receipt of the written complaint, the Executive Director or designee will make a preliminary determination as to whether the allegations in the complaint, if sustained, would violate the Non-Discrimination and Anti-

- The University is unable to identify the respondent after taking reasonable steps to identify the respondent.
- The Respondent is not participating in or attempting to participate in an education program or activity of the University or is no longer employed at the University.
- The Complainant voluntarily withdraws any or all allegations relating to their matter.
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Life and the Vice President for Human Resources may be notified.

The Executive Director or designee will inform the parties and any witnesses that retaliation against any person who makes a complaint of discrimination or harassment or participates in an investigation is a separate violation of the policy and will not be tolerated.

4. Investigator(s)

The Executive Director or designee will designate an Investigator(s). The Investigator(s) may be a trained employee of the University or an external investigator engaged by the University, or both. The investigator will conduct the investigation with the presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the process.

5. Investigative Steps

The Investigator(s) will coordinate the gathering information and evidence from the Complainant, the Respondent, and any other individuals who may have information relevant to the matter. Investigative interviews may be audio, or video recorded or transcribed. Complainant and Respondent will be asked to identify witnesses with relevant information or evidence, and to provide documents, records and other information, including electronic and social media

reaching a determination of whether the policy has been violated. The Executive Director or designee will provide each party with access to the report, in a view only format, via an online website that will allow all parties to review all material collected by the investigator, and the investigator's report. Parties will not be able to print or download the material and are prohibited from photographing or otherwise duplicating or disseminate the report or evidence.

The Complainant and Respondent may submit any additional evidence and/or a written submission to the Investigator(s) within seven (7) calendar days of being notified of the opportunity to review the preliminary report. Upon receipt of any additional information from the Complainant or Respondent, or after the seven (7) calendar day comment period has lapsed without comment, the Investigator(s) will prepare the final investigation report.

The final investigation report will be sent to the Complainant and Respondent and include the following additional information:

1. The additional information provided by the parties, if any;
2. findings of fact;
- 3 credibility determinations;
- 4 the investigator's determination of whether the policy has been violated based on the preponderance of the evidence standard; and
- 5 the recommended sanctions and remedies.

If the investigator determines that the conduct does not violate the policy, they may make recommendations for education and training as appropriate to correct any actions that might lead to future violations of the policy if continued

F. Notice of Investigation Outcome:

The Executive Director or designee shall provide a "Summary Report" containing a short statement to:

- Respondent's respective Vice President and the Vice President for Human Resources, if the respondent is a member of the staff or administration.
- Provost and the Vice President for Human Resources, if the respondent is a faculty member.
- Vice President for Student Life, if the respondent is a student. If the Student is also an employee that supervises other student employees, Vice President for Human Resources will also be provided with a copy of the report.

Appendix E. Voluntary Resolution Process

In certain circumstances, a voluntary resolution may be available if both the complainant and the respondent agree to move forward with a voluntary resolution process. Below are some voluntary resolution processes that may be utilized to address conduct that may or may not violate the policy.

A voluntary resolution may include, but is not limited to, the inappropriate conduct being brought to the attention of the respondent, an agreement to cease and not repeat specific conduct, an apology, participation in education, training, counseling, medication etc. or a combination thereof. A voluntary resolution will not include any sanction against the respondent; however, the voluntary resolution will be noted in the complainant and respondent's Office of Equity and Diversity file.

All resolutions resulting in an agreement between the complainant and respondent must be agreed to,