

## Policy Prohibiting Discrimination and Harassment

### TABLE OF CONTENTS

- I. Policy Prohibiting Discrimination and Harassment
  - a. [Purpose](#)
  - b. [Non-Discrimination Statement](#)
  - c. [Violations](#)
  - d. [Limitations on Violations](#)
  - e. [Reporting Options](#)
  - f. [Supportive Measures](#)
  - g. [Formal Complaint Process](#)
  - h. [Confidentiality](#)
  - i. [Confidential Reporting](#)
  - j. [External Reporting](#)
  - k. [Resources](#)
  - l. [Participant Rights and Responsibilities](#)
  - m. [Good Samaritan Guidelines—Students](#)
  - n. [University Response to a Formal Complaint](#)
  - o. [Employee-Related Responsibilities](#)
  - p. [Questions](#)
- II. [Discrimination and Discriminatory Harassment \(15.A\)](#)
  - a. [Purpose](#)
  - b. [Policy](#)
    - i. [Protected Classes](#)
    - ii. [Discrimination](#)
    - iii. [Application of Policy](#)
    - iv. [Violation of Policy](#)
- III. [Sexual Harassment \(15.B\)](#)
  - a. [Policy](#)
    - i. [Definition of Consent](#)
  - b. [Violation and Application of Policy](#)
    - i. [Title IX Sexual Harassment](#)
    - ii. [Other Sexual Harassment Violations](#)
- IV. [Appendix I: Examples of Prohibited Discriminatory Conduct](#)
- V. [Appendix 2: Examples of Protected Speech](#)

## Policy Prohibiting Discrimination and Harassment

### PURPOSE

Washington State University (WSU) recognizes that discrimination and harassment can impact the ability of students, staff, faculty, and community members to participate in, access, or reap the benefits of educational and employment opportunities. WSU is committed to creating and maintaining a diverse, inclusive, accessible, and equitable community.

WSU encourages reporting and questions, even anonymous questions, to Compliance and Civil Rights (CCR) under this policy. WSU offers support even if reporting parties choose to limit the information they disclose. In addition, WSU recognizes that reporting discrimination may be difficult for a number of reasons and puts the burden on the person experiencing harm. Thus, WSU requires all WSU employees to help create a culture of compliance with this policy (see [Employee-Related Responsibilities](#)).

Furthermore, WSU also recognizes and is committed to the principles of free inquiry and free expression, and understands that discussion and debate are fundamental to the University.

Complaints under this policy are to be reviewed on a case-by-case basis to ensure that the University maintains its tradition of intellectual freedom, the trust and respect expected in the University community, and the rights of individuals.

### NON-DISCRIMINATION STATEMENT

In matters of admissions, employment, housing or services, or in the educational program or activities it operates, WSU does not discriminate or permit discrimination by any member of its community against any individual on the basis of:

- Race
- Sex and/or gender
- Sexual orientation
- Gender identity or expression
- Religion
- Age
- Color
- Creed
- National or ethnic origin
- Marital status
- Genetic information

## Policy Prohibiting Discrimination and Harassment

### NON-DISCRIMINATION STATEMENT (cont.)

- Status as an honorably discharged veteran or member of the military
- Physical, mental, or sensory disability, including the use of a trained service animal
- Immigration or citizenship status, except as authorized by federal or state law, regulation, or government contract

Inquiries about WSU's policies relating to sex discrimination, sexual harassment, and sex and gender-based violence, as well as complaints of discrimination or harassment based on other protected classes, may be made to the Title IX Coordinator and/or Compliance and Civil Rights (CCR) at:

#### Compliance and Civil Rights

Physical location: French Administration Bldg.  
Room 225  
Pullman, WA 99164  
Hours: 8:00 a.m. – 5:00 p.m.

Mailing address: P.O. Box 641022  
Washington State University  
Pullman, WA 99164-1022

Telephone: 509-335-8288

Fax: 509-335-5483

Website: [ccr.wsu.edu/file-a-complaint](http://ccr.wsu.edu/file-a-complaint)

E-mail: [ccr@wsu.edu](mailto:ccr@wsu.edu)

### VIOLATIONS

Conduct which is subject to informal resolutions, investigations, and/or disciplinary and resolution processes is defined in:

- [15.A. Discrimination and Discriminatory Harassment](#)
- [15.B. Sexual Harassment](#)

### LIMITATIONS ON VIOLATIONS

WSU recognizes that some hateful or discriminatory speech may be used to communicate ideas, beliefs, or opinions, and therefore may have first amendment protections.

WASHINGTON STATE UNIVERSITY  
EXECUTIVE POLICY MANUAL

Executive Policy #15  
Revision Approved August 20, 2021

## Policy Prohibiting Discrimination and Harassment

### LIMITATIONS ON VIOLATIONS (cont.)

With limited exceptions, WSU does not limit or prohibit speech in an employee's private capacity, unless that private speech impacts WSU's operations. Employees are advised to be aware of their obligations and responsibility to WSU when acting in their private capacities. See *WAC 504-35-030(3)*.

This policy does not restrict the academic freedom of faculty within their instructional content and method, or in the communication of ideas relating to their subject matter. See the *WSU Faculty Manual*, Section II.B (Freedom of Expression and Accompanying Responsibilities).

This policy does not restrict the protected speech rights of students. (See also [Appendix 2: Examples of Protected Speech](#).)

WSU recognizes that conduct which does not violate this policy may still have the potential to harm individuals. Where conduct does not violate this policy, WSU may still engage in proactive steps to provide support, resources, and alternative or educational programming to address concerns. Conduct which does not violate this policy may still be a violation of another University policy or professional code.

### Standard of Evidence

WSU determines the facts and whether there is a violation of this policy based on a preponderance of evidence. Preponderance means that the totality of the evidence persuades the fact finder that a fact is more probably true than not true and/or that it is more probable than not that a violation of the policy occurred.

### REPORTING OPTIONS

Reports of conduct implicating this policy may be made to:

- The Title IX Coordinator;
- The ADA (Americans with Disabilities Act) Coordinator;
- CCR;
- External agencies (including the Department of Education's Office of Civil Rights, and law enforcement); or
- A confidential resource.

Additional information on reporting to law enforcement, confidential options, or external agencies is available in [Confidential Reporting](#) and [External Reporting](#).

## Policy Prohibiting Discrimination and Harassment

### REPORTING OPTIONS (cont.)

Reports to the Title IX Coordinator/Director of CCR or the ADA Coordinator may be made at:

#### Compliance and Civil Rights

Physical location: French Administration Bldg.  
Room 225  
Pullman, WA 99164  
Hours: 8:00 a.m. – 5:00 p.m.

Mailing address: P.O. Box 641022  
Washington State University  
Pullman, WA 99164-1022

Telephone: 509-335-8288

Fax: 509-335-5483

Website: [ccr.wsu.edu/file-a-complaint](http://ccr.wsu.edu/file-a-complaint)

E-mail: [ccr@wsu.edu](mailto:ccr@wsu.edu)

Reports to CCR may be made 24 hours per day, seven days per week. Reports made after normal business hours may be submitted through the online complaint form, via e-mail, or by leaving a voicemail on the office telephone. Reports are typically responded to within one business day.

A report is different than a formal complaint (see [Formal Complaint Process](#)). Reports to the Title IX Coordinator, ADA Coordinator, or CCR initiate a response from CCR to the reporting party, as described in the CCR Procedural Guidelines at:

[ccr.wsu.edu/ep15-procedural-guidelines/](http://ccr.wsu.edu/ep15-procedural-guidelines/)

The CCR response to the reporting party includes information on:

- Supportive measures (including that supportive measures are available with or without filing a complaint);
- Grievance processes;
- How to file a complaint; and
- A statement that the reporting party/complainant's wishes, with respect to supportive measures, are considered.

## Policy Prohibiting Discrimination and Harassment

### REPORTING OPTIONS (cont.)

Reporting parties may share information with CCR for the purpose of:

- Documenting their concerns;
- Facilitating supportive measures or resources;
- Requesting a consultation;
- Filing a formal complaint for the purpose of:
  - o Requesting an informal resolution; and/or
  - o Requesting a University investigation.

CCR accepts requests for consultations, including anonymous consultations. During a consultation, a reporting party may report as much, or as little, information as the reporting party is comfortable sharing. University administrators may have limited actions available when incomplete information is provided. CCR also accepts requests for consultations that involve compliance-related questions and that do not involve a complaint.

CCR accepts anonymous reports. Some CCR processes may not be available for anonymous reports if:

- The complainant's credibility cannot be assessed;
- Supporting documentation is not provided;
- Details are insufficient to support an investigation; and/or
- The due process rights of the respondent are in jeopardy.

If an individual is interested in making an anonymous report, CCR encourages the individual to provide as much information as is available, including descriptions of specific incidents, witness names, and any available documentary evidence.

### SUPPORTIVE MEASURES

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available, without fee or charge to a reporting party/complainant or respondent. Supportive measures may be offered before and/or after a formal complaint is filed, or where no formal complaint is filed. Supportive measures are provided through consultation with:

- The Title IX Coordinator,
- CCR,
- The Office of the Dean of Students (DOS) or campus Student Affairs leadership,
- Human Resource Services (HRS), and/or
- The department/college.

## Policy Prohibiting Discrimination and Harassment

### SUPPORTIVE MEASURES (cont.)

The range of supportive measures includes, but is not limited to:

#### Academic Measures for Students

- Request consideration or flexibility to a faculty member regarding assignments, classroom attendance, deadlines, or other academic needs
- Contacting individual faculty members for specific requests
- Independent study
- Additional tutoring
- Withdrawal, withdrawal without penalty, medical withdrawal
- Incompletes on classes
- Transfer assistance
- Classroom management plans
- Remote attendance/recording classes
- Academic schedule changes
- Access Center/reasonable accommodations
- Enrollment in Global Campus

#### Referrals to Care Providers

- Local victim advocacy agencies for access to counseling, crisis lines, support groups, shelters, etc.
- Counseling Services – WSU and community referrals, as available.
- Medical Providers, in particular hospitals with Sexual Assault Nurse Examiners (SANEs).
- Referrals to off-campus counselors.
- National/State resources to locate additional advocates/care providers, such as:
  - Rape, Abuse and Incest National Network (RAINN)
  - Washington State Coalition Against Domestic Violence (WSCADV)
  - Washington Coalition of Sexual Assault Programs (WCSAP)

#### Services for Employees

- Employee Assistance Program (counseling, financial, legal)
- Workplace management/safety plans

**WASHINGTON STATE UNIVERSITY**  
**EXECUTIVE POLICY MANUAL**  
Executive Policy #15  
Revision Approved August 20, 2021

## **Policy Prohibiting Discrimination and Harassment**

### **Services for Employees (cont.)**

- Work schedule adjustments, as needed, to obtain medical or mental health care, legal assistance, and/or confidential secure shelter.
- Domestic violence, sexual assault, stalking leave (*RCW* 49.76.010)
- Change reporting lines in consultation with HRS.
- Identify alternate work in consultation with supervisors/HRS.
- Work from home options in consultation with supervisors/HRS.
- Work schedule changes in consultation with supervisors/HRS.
- Work accommodations/reasonable accommodations through HRS Disability Services.

### **Safety**

- Report to law enforcement
- Police/Security safety assessment of home or campus areas
- Providing information on seeking a Protection Order for:
  - o Anti-harassment and stalking
  - o Domestic violence
  - o Sexual assault
- No-contact directive from the University
- Emergency removal or administrative leave, in consultation with DOS, Center for Community Standards, HRS, and/or CCR.
- Safety planning with a community victim advocate
- Residence hall changes, in consultation with DOS, Housing and Residence Life, and CCR.
- Cadet/police escort, where available
- Cougar Safe Rides (Pullman only)
- Local taxi/bus information
- Local domestic violence shelter information
- Blue phones
- Emergency residence life room on campus (Pullman only)

### **Miscellaneous**

- Emergency funding
- Support for tuition adjustment petitions (considered in appropriate cases)
- Campus involvement (student organizations, Women's Center, Diversity Centers, etc.)

WASHINGTON STATE UNIVERSITY  
EXECUTIVE POLICY MANUAL

Executive Policy #15  
Revision Approved August 20, 2021

## Policy Prohibiting Discrimination and Harassment

### Legal Resources

- ASWSU Student Legal Services ([sls.wsu.edu/](http://sls.wsu.edu/))
- Northwest Justice Project ([nwjustice.org/get-legal-help](http://nwjustice.org/get-legal-help))
  - CLEAR Hotline for counties outside King County ([nwjustice.org/clear-hotline](http://nwjustice.org/clear-hotline))
  - 211 Legal Referral and Information Hotline (King County) ([211.org](http://211.org))
- Washington Law Help - self-help resources ([washingtonlawhelp.org/](http://washingtonlawhelp.org/))
- Local advocacy agencies - legal advocates
- Moderate Means Program - online application for a referral to an attorney with reduced fees ([wsba.org/connect-serve/volunteer-opportunities/mmp/mmpclients](http://wsba.org/connect-serve/volunteer-opportunities/mmp/mmpclients))
- Family Law Matters - limited license legal technician ([wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/limited-license-legal-technicians](http://wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/limited-license-legal-technicians))
- Washington State Bar Attorney Referral ([wsba.org/for-the-public/find-legal-help](http://wsba.org/for-the-public/find-legal-help))
- Clark County Attorney Referral ([ccbawashington.org/](http://ccbawashington.org/))
- King County Attorney Referral ([kcba.org/For-the-Public/Hire-a-Lawyer/LRS-Request-Form](http://kcba.org/For-the-Public/Hire-a-Lawyer/LRS-Request-Form))
- Spokane County Attorney Referral ([spokanebar.org/online-referral-service/](http://spokanebar.org/online-referral-service/))
- Thurston County Attorney Referral ([thurstoncountybar.com/attorneys/](http://thurstoncountybar.com/attorneys/))
- Snohomish County Attorney Referral ([snobar.org/LRS/lrsform.html](http://snobar.org/LRS/lrsform.html))

### FORMAL COMPLAINT PROCESS

As described above, individuals may report concerns to the Title IX Coordinator, CCR, or the ADA Coordinator and receive information on supportive measures and how to file a formal complaint. To initiate an informal resolution or formal investigation, a formal complaint must be filed by a complainant.

Formal complaints may be filed with CCR, the Title IX Coordinator, or ADA Coordinator. Consistent with *Executive Policy Manual* EP26: Internal Investigations Training and Policy, CCR or its designee is responsible for University investigations under this policy. CCR provides reporting options and investigative processes to address allegations of violations of this policy. The Title IX Coordinator is housed in CCR. Complaints to the Title IX Coordinator or CCR may be made for the purpose of requesting an informal resolution or investigation.

EXCEPTION: Grievances under this policy arising out of WSU health care programs or activities which receive funding from the U.S. Department of Health and Human Services (e.g., a patient alleging a denial of service due to a protected class status), must be filed with the Section 1557 Civil

WASHINGTON STATE UNIVERSITY  
EXECUTIVE POLICY MANUAL

Executive Policy #15  
Revision Approved August 20, 2021

## Policy Prohibiting Discrimination and Harassment

### FORMAL COMPLAINT PROCESS (cont.)

Rights Coordinator, housed in Cougar Health Services. (See [Patient Protection and Affordable Care Act](#).) The Section 1557 Civil Rights Coordinator works with CCR and the Title IX Coordinator regarding investigation or informal resolution of the complaint.

The Section 1557 Civil Rights Coordinator may be contacted at:

#### Cougar Health Services

Mailing address: P.O. Box 642302  
Washington State University  
Pullman, WA 99164-2302

E-mail: CHS.civilrightscoord@wsu.edu

Complaints involving criminal activity may also be made to local law enforcement. WSU's process related to this policy is separate and distinct from the criminal process and may be pursued simultaneously. In cases where a criminal conviction is made, CCR may rely on that finding, in whole or in part. Furthermore, in cases involving a criminal investigation, CCR may rely on the police investigation in making determinations under this policy, regardless of whether or not that criminal investigation results in a criminal charge, prosecution, or conviction. The failure to charge, prosecute, and/or convict a respondent does not preclude the CCR investigation of a complaint.

To file a formal complaint under this policy with CCR and/or the Title IX Coordinator, a complainant must fill out the formal complaint form available at:

[ccr.wsu.edu/file-a-complaint](http://ccr.wsu.edu/file-a-complaint)

A physical copy of the formal complaint form is available at CCR, or by request through postal mail. See [CCR contact information](#).

The complaint form may be submitted 24 hours per day, 7 days per week. The complaint form must be:

- Filled out by the Director/Title IX Coordinator, the complainant, or the complainant's legal guardian/parent where they would otherwise have a legal right to do so; and
- Signed either physically or electronically by the complainant or otherwise indicate that the complainant is the person filing the complaint.

Complaints may be submitted for the purpose of requesting an informal resolution or a formal investigation. NOTE: Both informal resolutions and formal investigations require notice of the allegations and the process to be provided to both the complainant and the respondent; in most cases,

## Policy Prohibiting Discrimination and Harassment

### FORMAL COMPLAINT PROCESS (cont.)

this notice includes the identities of the complainant and the respondent. CCR engages in these processes where the alleged conduct meets one of the definitions in this policy, and where CCR has appropriate jurisdiction. To make this assessment, CCR assesses whether the conduct meets the jurisdiction and definitions described in [EP15.A](#) or [EP15.B](#).

If the conduct falls under EP15.A, CCR assesses whether the conduct meets the definitions and jurisdiction outlined in the EP15.A [Violation of Policy](#) section.

If the conduct falls under EP15.B, CCR assesses whether the complaint meets the definitions and jurisdiction in the EP15.B [Title IX Sexual Harassment](#) section. If not, CCR dismisses the complaint under Title IX (an appeal of this dismissal is available), and then reviews the complaint under the definitions and jurisdiction described in the EP15.B [Other Sexual Harassment Violations](#) section.

CCR may dismiss a complaint where specific circumstances prevent an investigator from gathering evidence sufficient to make a determination. For example, for complaints of conduct occurring more than two years in the past, the CCR determination on whether to proceed with an investigation may be limited by the passage of time and availability of evidence. In making determinations on older matters, CCR considers, at a minimum:

- The support options available to the participants;
- The likelihood of any continuing effects on WSU activities, programs, or events;
- Available resources;
- The amount of time that has passed;
- The existence of available records;
- The availability of witnesses; and
- The impact of time on witnesses' ability to recall accurate information.

CCR may dismiss complaints which are received when the respondent is no longer enrolled or employed and WSU does not have authority over them. However, CCR does not dismiss a complaint where the respondent chooses to disenroll or end their employment after learning of a complaint or investigation. Complaints dismissed by CCR, including complaints which do not implicate EP15, may be referred to another university department, such as HRS, the Office of the Provost, the Center for Community Standards, or Internal Audit.

### CONFIDENTIALITY

WSU is not a confidential resource. However, WSU keeps information regarding parties and witnesses in discrimination matters confidential, except as permitted by FERPA statute or regulations (34 CFR 99), as required by law, or as needed to fairly conduct an investigation, hearing, or adjudication procedures, including as required by 34 CFR 106 for matters involving Title IX allegations.

## Policy Prohibiting Discrimination and Harassment

### CONFIDENTIALITY (cont.)

CCR may report findings or the cause for an administrative leave to other agencies, where required by a granting agency (e.g., the National Science Foundation (NSF) requires awardee institutions to report sexual harassment findings). As described under the Formal Complaint Process section, for matters involving a formal investigation or informal resolution, the complainant's and respondent's identity is included in the notice of investigation or informal resolution.

WSU does not enter into nondisclosure agreements involving sexual harassment and sexual misconduct that are prohibited by *RCW* 49.44.210 and *RCW* Chapter 28B.112

### CONFIDENTIAL REPORTING

As described above, CCR is not a confidential resource, and confidentiality is not guaranteed. However, CCR takes reasonable steps to protect the privacy of individuals participating in matters under this policy, to the extent allowable by University policy and state and federal regulations and law.

CCR files are subject to public records requests; however, WSU redacts records to protect the privacy of individuals to the extent allowed by law. Responses to public records requests are in accordance with *RCW* 42.56.660, 42.56.665, and 42.56.675. Individuals may request to consult with CCR anonymously before deciding whether to disclose their identity.

Reports may be shared confidentially with:

For students:

- WSU counseling or medical providers;
- Local victim advocacy agencies;
- Local counseling or medical providers; and/or
- Other University personnel designated as confidential.

For employees:

- Employee Assistance Program;
- Local victim advocacy agencies;
- Local counseling or medical providers; and/or
- Other University personnel designated as confidential.

Information on how to access these confidential reporting options is available on the CCR website at:

[ccr.wsu.edu/resources/](http://ccr.wsu.edu/resources/)

## Policy Prohibiting Discrimination and Harassment

### EXTERNAL REPORTING

Employees and students have the right to file complaints to external agencies including, but not limited to:

- The Washington State Human Rights Commission
- The Federal Equal Employment Opportunity Commission
- The Department of Education's Office for Civil Rights
- Law enforcement agencies

### RESOURCES

Access to confidential and nonconfidential resources is available to all participants in CCR's processes, which may include University administrative resources, counseling, medical services, advocacy, and safety options. Information about resources, including resources specific to each campus location, as well as state and federal compliance offices, is available and marked as confidential or nonconfidential on the CCR website at:

[ccr.wsu.edu/resources/](http://ccr.wsu.edu/resources/)

Some WSU employees may be required to report information under this policy. For more information, see Employee Reporting Requirements.

### PARTICIPANT RIGHTS AND RESPONSIBILITIES

During a CCR investigative process, the complainant and the respondent have the right to all the following:

- Individualized and appropriate supportive measures, in consultation with CCR, HRS, DOS, law enforcement, court order (including protection orders), and/or other University administrators;
- Confidential and nonconfidential resources;
- Neutral investigative process;
- Receive information about University policies and procedures, including information that retaliation is prohibited for all investigation participants;
- Notification of allegations;
- Opportunity to respond to allegations and/or witness statements;
- Opportunity to present evidence;
- Opportunity to provide relevant witnesses;

WASHINGTON STATE UNIVERSITY  
EXECUTIVE POLICY MANUAL

Executive Policy #15  
Revision Approved August 20, 2021

## Policy Prohibiting Discrimination and Harassment

### PARTICIPANT RIGHTS AND RESPONSIBILITIES (cont.)

- Opportunity to present and have considered their preferred resolution path;
- Opportunity to have a support person or advisor, which may be an attorney;
- Opportunity to review evidence and provide an additional written statement to be considered prior to publication of an investigative report;
- Opportunity to be informed of the status and the outcome of an investigation; and
- Opportunity to review investigative findings and conclusions in writing, which may be redacted as necessary to protect privacy.

Additional rights and information about CCR's investigative procedures may be found in the CCR Procedural Guidelines at:

[ccr.wsu.edu/ep15-procedural-guidelines/](http://ccr.wsu.edu/ep15-procedural-guidelines/)

Additional rights and responsibilities for the sanctioning process may be found in the *WSU Faculty Manual*, the *Administrative Professional Handbook*, *WAC 357-40* (civil service employees), applicable collective bargaining agreements, or the *WSU Standards of Conduct for Students (WAC 504-26)*.

The reporting and responding parties in an investigation are responsible for:

- Providing verbal or written statements, if desired;
- Presenting the names of witnesses, if desired;
- Reviewing and responding to University communications provided to their WSU e-mail account; and
- Participating in adjudicative or disciplinary proceedings.

### GOOD SAMARITAN GUIDELINE – STUDENTS

During a CCR process, when a student voluntarily shares information about the possession or use of alcohol or drugs, CCR does not refer the student to the Center for Community Standards for alcohol or drug related conduct proceedings, except where drugs or alcohol were used to gain advantage, incapacitation, or exploitation over another individual. The Center for Community Standards also uses discretion under *WAC 504-26-510*, the Good Samaritan Policy, and may refrain from imposing formal discipline for alcohol or drug use and possession under the Standards of Conduct for Students. For more information, see the Center for Community Standards at:

[communitystandards.wsu.edu/](http://communitystandards.wsu.edu/)

See also, *WAC 504-26-510*: Good Samaritan policy.

WASHINGTON STATE UNIVERSITY  
EXECUTIVE POLICY MANUAL

Executive Policy #15  
Revision Approved August 20, 2021

## Policy Prohibiting Discrimination and Harassment

### UNIVERSITY RESPONSE TO A FORMAL COMPLAINT

#### CCR Responsibilities

CCR is the central intake office for formal complaints under this policy and serves as a neutral consultation and investigation resource. CCR acts in an impartial manner following its Procedural Guidelines, which include information on reporting, supportive measures, determination to proceed, investigative procedures, informal resolutions, and appeals.

Reports to CCR may also involve other University policies or procedures within the purview of the Center for Community Standards, HRS, or the Office of Internal Audit, among others.

Information on student conduct policies and procedures is available on the Center for Community Standards website at:

[communitystandards.wsu.edu/](http://communitystandards.wsu.edu/)

Information on employment policies and procedures is available on the HRS website at:

[hrs.wsu.edu](http://hrs.wsu.edu)

Information on policies and procedures under the purview of the Office of Internal Audit is available on at:

[internalaudit.wsu.edu](http://internalaudit.wsu.edu)

#### Informal Resolutions

After receiving a formal complaint, CCR may engage in an informal resolution process. An informal resolution process is not commenced until written notice is provided to both parties disclosing the allegations and the requirements of the informal resolution process, as described in the CCR Procedural Guidelines, and until WSU has received voluntary, written consent to proceed with the informal resolution process from both parties.

WSU does not offer an informal resolution to resolve allegations that an employee sexually harassed a student, as defined by the EP15.B [Title IX Sexual Harassment](#) section, but may offer it for other circumstances.

Informal resolutions may include, but are not limited to:

- Conduct management plans or resolution agreements;
- Verbal or written counseling;
- Departmental resolutions;

## Policy Prohibiting Discrimination and Harassment

### Informal Resolutions (cont.)

- Alternative dispute resolutions;
- Mediation, if available; and/or
- Additional required training.

### Investigations

CCR may conduct an investigation after receiving a formal complaint, which meets the requirements of EP15.A or EP15.B. CCR conducts a neutral and unbiased investigation, with investigators who do not have a conflict of interest or bias towards either party specifically or generally. CCR investigations are conducted pursuant to the Procedural Guidelines and are initiated with a presumption that the respondent is not responsible for the alleged conduct. CCR provides notice of the allegations in writing to both parties. Both parties have the right to present witnesses and evidence. The evidentiary burden is on WSU, not the parties.

During an investigation, WSU does not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. Throughout the investigative process, the parties have the right to have an advisor of their choice with them. The parties also have an opportunity to review the evidence collected and provide a written response, prior to the publication of an investigative report.

For more information about the investigative process, see the Procedural Guidelines at:

[ccr.wsu.edu/ccr-procedural-guidelines/](http://ccr.wsu.edu/ccr-procedural-guidelines/)

### Resolution and Disciplinary Processes

CCR functions as a neutral investigator only and does not participate in discipline or sanction decision-making following an investigation, but may participate in informal resolution processes, as appropriate. Upon receipt of CCR investigation findings, discipline and sanctions may be imposed by appropriate decision-makers, as outlined in the applicable University policy or handbook, including:

- *WSU Faculty Manual*,
- *Administrative Professional Handbook*,
- *WAC 357-40* (civil service employees),
- Applicable collective bargaining agreements, and
- WSU Standards of Conduct for Students (*WAC 504-26*), including any appeal procedures provided under the applicable standard.

## Policy Prohibiting Discrimination and Harassment

### Resolution and Disciplinary Processes (cont.)

Any sanction imposed, or other actions taken, must be reported to CCR by the administrator or supervisor who imposes the sanction or takes action.

Matters involving alleged Title IX sexual harassment, as defined in [EP15.B](#), have specific hearing and appeals requirements, pursuant to federal regulations. Additional information about these requirements may be found in the applicable University policy or handbook.

In addition, where a violation is found to have occurred, the decision-maker may also provide remedies to the complainant that are designed to restore or preserve equal access to educational programs or activities. Remedies may include, but are not limited to:

- Extension of academic timelines
- Additional academic support or tutoring
- Retroactive withdrawals without penalty
- Transfer assistance
- Residence hall changes
- Work schedule, duties, or compensation changes
- Change of employee reporting lines
- Items described in the Supportive Measures section of this policy

The Title IX Coordinator is responsible for effective implementation of any remedies where a Title IX violation is found to have occurred.

### EMPLOYEE-RELATED RESPONSIBILITIES

#### Department Responsibilities

All University departments are expected to promote a work and academic environment which is free of discrimination and harassment. This may include taking steps to:

- Address conduct, in consultation with CCR, HRS, and the WSU Division of the Office of the Attorney General;
- Provide training to employees or students; and
- Ensure policies and procedures comply with this policy.

## Policy Prohibiting Discrimination and Harassment

### Department Responsibilities (cont.)

Managers and supervisors are required to:

- Coordinate and cooperate with the Lead Title IX Coordinator or CCR regarding compliance, investigations, and resolutions under this policy, including taking appropriate steps to prevent or respond to potential retaliation and interference as prohibited by this policy;
- Ensure staff are adequately trained on this policy (see [Employee Training Requirements](#));
- Engage in preventative activities and create a culture of compliance with this policy;
- Promptly report possible violations of this policy as required (see [Employee Reporting Requirements](#));
- Participate in investigations or other resolution processes under this policy, as appropriate;
- Maintain records as required by the state and University retention policies;
- Execute resolutions or sanctioning, if appropriate; and
- Not engage in conduct prohibited under this policy.

WSU employees are required to:

- Contribute to a culture of compliance with this policy;
- Not engage in conduct prohibited under this policy;
- Promptly report possible violations of this policy as required (see [Employee Reporting Requirements](#));
- Participate in an investigation or other resolution process under this policy, as appropriate;
- Not engage in retaliation or interference as prohibited by this policy; and
- Complete the required discrimination and harassment prevention employee training (see [Employee Training Requirements](#)).

### Employee Training Requirements

This section applies to employees, which includes all WSU employees, student employees, and authorized volunteers.

In accordance with the goals of this policy, all WSU employees, including student employees and authorized volunteers, are required to take the Discrimination, Sexual Harassment, and Sexual Misconduct Awareness, Prevention, and Response Training at regular intervals determined by the WSU Office of the President.

Individual units may require employees to complete additional training and may submit requests to CCR for specific training needs.

## Policy Prohibiting Discrimination and Harassment

### Employee Reporting Requirements

#### Incidents Involving Sexual Harassment

Employees who have information regarding an incident or situation involving sexual harassment (including, but not limited to, quid pro quo harassment, sexual misconduct, intimate partner violence, or stalking) are required to promptly report the information to:

- CCR,
- The Lead Title IX Coordinator, or
- A designated area Title IX Deputy Coordinator.

The list of Lead Title IX Coordinators and area Title IX Deputy Coordinators is available on the CCR website at:

[ccr.wsu.edu/title-ix/title-ix-coordinators/](http://ccr.wsu.edu/title-ix/title-ix-coordinators/)

There are limited exceptions to this requirement. The exceptions are:

- Employees who are statutorily barred from reporting (for example, health care providers and mental health care providers acting in their capacities as health care and mental health care providers);
- Employees, interns, professional trainees, volunteers, contractors, and other similar individuals who have received information while providing services within their professional capacity at WSU's Cougar Health Services, Athletic Medicine, or WSU Psychology Clinic, or while otherwise designated by WSU to provide medical or mental health services;
- Employees participating in preventative education for students regarding sex and gender-based violence or a related program, during which a student or employee discloses having experienced sexual harassment (including, but not limited to quid pro quo harassment, sexual misconduct, intimate partner violence, or stalking);
- Employees who have no authority to take action to redress sexual harassment (including, but not limited to quid pro quo harassment, sexual misconduct, intimate partner violence, or stalking) and who may not reasonably be viewed by students or other employees as having such authority (for example, certain nonsupervisory custodial or dining services staff). Such employees are nonetheless strongly encouraged to report all instances of sexual harassment (including, but not limited to, quid pro quo harassment, sexual misconduct, intimate partner violence, or stalking) to CCR; *and*

WASHINGTON STATE UNIVERSITY  
EXECUTIVE POLICY MANUAL

Executive Policy #15  
Revision Approved August 20, 2021

## Policy Prohibiting Discrimination and Harassment

### Incidents Involving Sexual Harassment (cont.)

- Employees engaged in research and climate surveys which include gathering information on discrimination and harassment, during which a research participant discloses, for the purpose of the research, having experienced discrimination and harassment, unless the Institutional Review Board requires otherwise.

### Other Incidents of Discrimination

Employees with supervisory responsibility must report all incidents of discrimination that may violate this policy to CCR. All other WSU employees are advised to report such incidents.

### Campus Security Authority Reporting

Employees designated as a Campus Security Authority are required to report Clery Act identified crimes to the appropriate Clery administrator. Each campus has its own Campus Security Authorities. Campus Security Authorities are identified on the CCR website at:

[ccr.wsu.edu/csa/](http://ccr.wsu.edu/csa/)

### State Mandatory Reporting

Under state law (*RCW* 26.44.030(1)(f)), all administrative, academic, and athletic department employees, including student employees, are required to report suspected child abuse or neglect to law enforcement or to the Washington State Department of Social and Health Services. All other higher education employees are required to report suspected child abuse or neglect to their supervisor within 48 hours and are advised to report these incidents to law enforcement (*RCW* 28B.10.846).

WSU students participating in certain internships, clinical rotations, and other training programs, and faculty, staff, and licensed health care providers overseeing such programs, also may have mandatory reporting requirements with respect to abuse and neglect of children and vulnerable adults, in accordance with *RCW* 26.44.030 and *RCW* 74.34.035.

### Patient Protection and Affordable Care Act

Grievances under this policy (e.g., a patient alleging a denial of service due to a protected class status) arising out of WSU health care programs or activities which receive funding from the U.S. Department of Health and Human Services, must be filed with the Section 1557 Civil Rights Coordinator. (See [Formal Complaint Process](#).)

**WASHINGTON STATE UNIVERSITY  
EXECUTIVE POLICY MANUAL**

Executive Policy #15  
Revision Approved August 20, 2021

## **Policy Prohibiting Discrimination and Harassment**

### Patient Protection and Affordable Care Act (cont.)

WSU health care programs or activities post a Notice of Nondiscrimination and Accessibility (Notice) within each health care program/activity (i.e., Cougar Health Services), as required by Section 1557 of the Patient Protection and Affordable Care Act (ACA). This Notice formally designates the Civil Rights Coordinator to receive grievances and the procedure for submitting a grievance. The Section 1557 Civil Rights Coordinator is also responsible for coordinating WSU's compliance with Section 1557 of the ACA.

### **QUESTIONS**

Questions about this policy may be directed to CCR. See [CCR contact information](#).

## Policy Prohibiting Discrimination and Harassment

### 15.A. DISCRIMINATION AND DISCRIMINATORY HARASSMENT

#### PURPOSE

WSU prohibits discrimination and discriminatory harassment as defined under [Violation of Policy](#). Conduct meeting the definitions in the Violation of Policy section may be subject to EP15 [Resolution and Disciplinary Processes](#). Where conduct does not meet the violation standards listed below, but is discriminatory in nature, WSU may review the conduct under [EP15.B](#) or take alternative steps to remedy the conduct, educate, provide support or resources, or engage in other processes.

#### POLICY

##### Protected Classes

WSU recognizes the following classes (categories or traits) as protected, in accordance with applicable federal and state regulations and law:

- Race
- Sex and/or gender
- Sexual orientation
- Gender identity or expression
- Religion
- Age
- Color
- Creed
- National or ethnic origin
- Marital status
- Genetic information
- Status as an honorably discharged veteran or member of the military
- Physical, mental, or sensory disability, including the use of a trained service animal
- Immigration or citizenship status, except as authorized by federal or state law, regulation, or government practice

##### Discrimination

Discrimination is defined as unfair different treatment of, or behavior towards, another based on the individual's or individuals' membership in a protected class, or their perceived membership in a protected class.

WASHINGTON STATE UNIVERSITY  
EXECUTIVE POLICY MANUAL

Executive Policy #15  
Revision Approved August 20, 2021

## Policy Prohibiting Discrimination and Harassment

### 15.A. DISCRIMINATION AND DISCRIMINATORY HARASSMENT

#### Discrimination (cont.)

Discriminatory conduct includes a wide spectrum of behaviors. Conduct meeting the violation standards listed below is subject to WSU investigative and disciplinary procedures. Where conduct does not meet the violation standards listed below, but is discriminatory in nature, WSU may take steps to remedy the conduct, educate, provide support or resources, or engage in an alternative resolution process.

#### Application of Policy

EP15.A applies to all students, faculty, staff, and others having an association with the University if the incident:

- Occurs on WSU-owned or -controlled property;
- Occurs in connection with WSU activities, programs, or events;
- Has the effect of, or the potential to, unreasonably interfere with or limit an individual's work, academic performance, living environment, personal security, or participation in any activity at WSU;
- Includes unlawful acts that directly affect WSU programs, community members, or property insofar as such acts materially and substantially interfere with the missions, functions, processes, and goals of the WSU community; *or*
- Includes unlawful acts that result in a guilty plea to or conviction of a felony.

WSU may act upon incidents that are outside of the application of this policy if another University policy provides jurisdiction.

Consistent with *WAC* 504-26-221, the use of alcohol or drugs is not a valid defense to a violation of this policy.

#### Violation of Policy

In determining if conduct is discriminatory and a violation of EP15.A, the totality of the circumstances are assessed including, but not limited to, the following factors:

- Severity;
- Frequency of the discrimination;
- Status of the reporting and responding parties and their relationship to each other;

## Policy Prohibiting Discrimination and Harassment

### 15.A. DISCRIMINATION AND DISCRIMINATORY HARASSMENT

#### Violation of Policy (cont.)

- Physicality, threats, or endangerment; and
- Whether or not the conduct can be reasonably considered protected speech or serving some other lawful purpose.

The following types of conduct are prohibited and subject to the investigative, adjudicative, and disciplinary procedures outlined in this policy. See also [Appendix 1: Examples of Prohibited Discriminatory Conduct](#).

#### Disparate Treatment

Knowingly or intentionally treating an individual or individuals differently on the basis of a protected class not for a legitimate lawful purpose, which results in the individual or individuals being treated less favorably than similarly situated individuals of a different protected class.

#### Disparate Impact

A facially neutral policy or practice that results in an individual or individuals in a protected class being impacted differently and less favorably than similarly situated individuals who are not in that protected class. This does not include conduct which has a legitimate lawful purpose.

#### Discriminatory Harassment

Unwelcome, intentional conduct, on the basis of membership in a protected class, other than sex, which is so severe or pervasive, and objectively offensive, that it substantially and unreasonably:

- Interferes with, or has the potential to interfere with, an individual's ability to participate in WSU employment, education, programs, or activities;
- Adversely alters the condition of an individual's WSU employment, education, or participation status;
- Creates an objectively abusive employment, program, or educational environment; or
- Results in a material or substantial disruption of WSU's operations or the rights of students, staff, faculty, visitors, or program participants.

#### Sexual Harassment and Sex and Gender Based Violence

See [EP15.B](#) for sexual harassment and sex and gender based violence.

## Policy Prohibiting Discrimination and Harassment

### 15.A. DISCRIMINATION AND DISCRIMINATORY HARASSMENT

#### Violation of Policy (cont.)

##### Retaliation

Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privileged secured by this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

First amendment activities do not constitute retaliation.

##### Interference

Actions that intentionally:

- Dissuade or attempt to dissuade reporting parties, responding parties, or witnesses from reporting or participating in an investigation;
- Attempt to influence a complainant, respondent, or witness to make an inaccurate statement in the investigation;
- Delay or disrupt, or attempt to delay or disrupt, any University processes related to this policy; and/or
- Alter or attempt to alter the evidence provided to or received by investigative or disciplinary processes.

##### False Statements

Making a materially false statement in bad faith during any proceeding or process under this policy. No complaint is considered false solely because it cannot be corroborated.

##### Violation of Discrimination Law

Any action that would be a violation of any state of Washington or federal discrimination law is also a violation of this policy.

## Policy Prohibiting Discrimination and Harassment

### 15.B. SEXUAL HARASSMENT

#### POLICY

WSU is subject to multiple federal and state laws and regulations regarding sexual harassment and sex and gender-based violence, each with differing requirements. WSU prohibits sexual harassment as defined in the [Title IX Sexual Harassment](#) section below, pursuant to Title IX of the Education Amendments Act of 1972. WSU also prohibits conduct that does not meet the Title IX definition of sexual harassment yet is contrary to WSU's mission and values, including conduct occurring in the workplace implicating Title VII of the Civil Rights Act of 1964. Such conduct is defined under [Other Sexual Harassment Violations](#).

Complaints of conduct implicating the Title IX Sexual Harassment or Other Sexual Harassment Violations sections may be subject to university process, informal resolutions, investigations, hearings, or appeals.

NOTE: specific disciplinary and hearing requirements, as described under [Resolution and Disciplinary Processes](#) in EP15 and the applicable disciplinary and sanctioning manual or policy, apply depending on whether the conduct meets the Title IX sexual harassment standard or Other Sexual Harassment Violations section.

Where conduct does not meet the violation standards listed below, but is discriminatory in nature, WSU may review the conduct under [EP15.A](#) or take alternative steps to remedy the conduct, educate, provide support or resources, or engage in other processes.

WSU is under a legal obligation to respond to allegations of sexual harassment. CCR requests feedback from a complainant regarding their desired outcome and/or process.

#### Definition of Consent

For purposes of EP15.B, consent to any sexual activity must be clear, knowing, and voluntary. Anything less is equivalent to a "no." Clear, knowing, and voluntary consent to sexual activity requires that, at the time of the act, and throughout the sexual contact, all parties actively express words or conduct that a reasonable person would conclude demonstrates clear permission regarding willingness to engage in sexual activity and the conditions of such activity. Consent is active; silence or passivity is not consent. Even if words or conduct alone seem to imply consent, sexual activity is nonconsensual when:

- Force or coercion is threatened or used to procure compliance with the sexual activity.
  - Force is the use of physical violence, physical force, threat, or intimidation to overcome resistance or gain consent to sexual activity.

## Policy Prohibiting Discrimination and Harassment

### 15.B. SEXUAL HARASSMENT

#### Definition of Consent (cont.)

- Coercion is unreasonable pressure for sexual activity. When an individual makes it clear through words or actions that the individual does not want to engage in sexual contact, wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure beyond that point may be coercive. Other examples of coercion may include using blackmail or extortion to overcome resistance or gain consent to sexual activity.
- The person is asleep, unconscious, or physically unable to communicate their unwillingness to engage in sexual activity; *or*
- A reasonable person would or should know that the other person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that incapacity is produced by illness, defect, the influence of alcohol or another substance, or some other cause.

When alcohol or drugs are involved, a person is considered incapacitated or unable to give valid consent if the individual cannot fully understand the details of the sexual interaction (i.e., who, what, when, where, why, and how), and/or the individual lacks the capacity to reasonably understand the situation and to make rational, reasonable decisions.

The use of alcohol or other drugs is not a valid defense to a violation of this policy.

#### VIOLATION AND APPLICATION OF POLICY

In determining if conduct is discriminatory and a violation of this policy, the totality of the circumstances are assessed including, but not limited to, the following factors:

- Severity;
- Frequency of the discrimination;
- Status of the reporting and responding parties and their relationship to each other;
- Physicality, threats, or endangerment; and
- Whether or not the conduct can be reasonably considered protected speech or serving some other lawful purpose.

The following conduct is prohibited and subject to the investigative, adjudicative, and disciplinary procedures outlined in this policy.

## Policy Prohibiting Discrimination and Harassment

### 15.B. SEXUAL HARASSMENT

#### Title IX Sexual Harassment

Pursuant to Title IX of the Education Amendments of 1972, and its implementing regulations, WSU prohibits sexual harassment as defined below. This section applies to all students, faculty, staff, and others having an association with the University where the alleged incident(s):

- May constitute Title IX sexual harassment;
- Occurs within WSU's educational program or activity, which includes:
  - o Locations, events, or circumstances over which WSU exercises substantial control over both the respondent and the context in which the sexual harassment occurs, and
  - o Any building owned or controlled by a student organization that is officially recognized;
- Occurs against a person in the United States; *and*
- Occurs against a person who is participating in or attempting to participate in WSU's educational program or activity.

Conduct which does not meet these requirements may still be in violation of University policy if the conduct meets the requirements for Other Sexual Harassment Violations or [EP15.A](#).

NOTE: WSU prohibits additional forms of sexual harassment. See [Other Sexual Harassment Violations](#).

#### Title IX Sexual Harassment Definitions

For the purposes of Title IX sexual harassment, sexual harassment is defined as unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity. This includes, but is not limited to:

1. **Quid Pro Quo** – a school employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct.
2. **Sexual Assault** – a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. NOTE: If the following sexual assault definitions are updated in the NIBRS User Manual (available online at FBI UCR Technical Specifications), the updated definitions are applied.
  - a. **Sex Offense:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

## Policy Prohibiting Discrimination and Harassment

### 15.B. SEXUAL HARASSMENT

#### Title IX Sexual Harassment Definitions (cont.)

- b. **Rape** (except Statutory Rape): The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - c. **Sodomy**: Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - d. **Sexual assault with an object**: To use an object or instrument to unlawfully penetrate, however, slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - e. **Fondling**: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - f. **Incest**: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - g. **Statutory Rape**: Sexual intercourse with a person who is under the statutory age of consent.
3. **Dating Violence** - violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship is to be determined based on length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
4. **Domestic Violence** - a felony or misdemeanor crime of violence committed:
- a. By a current or former spouse or intimate partner of the victim;
  - b. By a person with whom the victim shares a child in common;
  - c. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - d. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of Washington, or

## Policy Prohibiting Discrimination and Harassment

### 15.B. SEXUAL HARASSMENT

#### Title IX Sexual Harassment Definitions (cont.)

**Domestic Violence** - a felony or misdemeanor crime of violence committed: (cont.)

- e. By any other person against an adult or youth victim who is protected from that person's act under the domestic or family violence laws of Washington.
5. **Stalking** - engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- a. Fear for the person's safety or the safety of others; or
  - b. Suffer substantial emotional distress.

For the purposes of this definition:

- i. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- ii. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- iii. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

#### **Other Sexual Harassment Violations**

WSU prohibits additional forms of sexual harassment listed in the numbered sections below. These definitions apply to all students, faculty, staff, and others having an association with the University if the incident meets any one of the following conditions:

- Occurs on WSU-owned or -controlled property;
- Occurs in connection with WSU activities, programs, or events;
- Has the effect of, or the potential to, unreasonably interfere with or limit an individual's work, academic performance, living environment, personal security, or participation in any activity at WSU;
- Includes unlawful acts that directly affect WSU programs, community members, or property insofar as such acts materially and substantially interfere with the missions, functions, processes, and goals of the WSU community; *or*
- Includes unlawful acts that result in a guilty plea to or conviction of a felony.

WASHINGTON STATE UNIVERSITY  
EXECUTIVE POLICY MANUAL

Executive Policy #15  
Revision Approved August 20, 2021

## Policy Prohibiting Discrimination and Harassment

### 15.B. SEXUAL HARASSMENT

#### Other Sexual Harassment Violations (cont.)

WSU may act upon incidents that are outside of the application of this policy if another University policy provides jurisdiction.

#### Other Sexual Harassment Definitions

1. **Title VII Sexual Harassment.** Amongst employees, harassment on the basis of sex is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when any of the following conditions is met:
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  - b. Submission to or rejection of such conduct by an individual is used as the basis for employment decision affecting such individual, *or*
  - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
  
2. **Other Sexual Harassment** is defined as:
  - a. Unwelcome, intentional conduct, on the basis of sex and/or gender, which is so severe or pervasive, and objectively offensive, that it substantially and unreasonably:
    - i. Interferes with, or has the potential to interfere with, an individual's ability to participate in WSU employment, education, programs, or activities;
    - ii. Adversely alters the condition of an individual's WSU employment, education, or participation status;
    - iii. Creates an objectively abusive employment, program, or educational environment; *or*
    - iv. Results in a material or substantial disruption of WSU's operations or the rights of students, staff, faculty, visitors, or program participants.
  
  - b. Sex and/or gender-based violence. Sex and/or gender-based violence is an egregious form of sexual harassment and is defined as sexual assault, stalking, dating violence and domestic violence as defined in the [Title IX Sexual Harassment Definitions](#), and sexual exploitation as defined below.
  
3. **Sexual Exploitation** occurs when a person takes nonconsensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses explained above.

WASHINGTON STATE UNIVERSITY  
EXECUTIVE POLICY MANUAL

Executive Policy #15  
Revision Approved August 20, 2021

## Policy Prohibiting Discrimination and Harassment

### 15.B. SEXUAL HARASSMENT

#### Other Sexual Harassment Definitions (cont.)

Examples of sexual exploitation may include, but are not limited to:

- a. Causing or attempting to cause the incapacitation of another person to gain sexual advantage over such other person;
  - b. Invading another person's sexual privacy;
  - c. Prostituting another person;
  - d. Engaging in voyeurism. A person commits voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, records, or films another person, without that person's knowledge and consent, while the person being viewed, photographed, recorded, or filmed is in a place where he or she has a reasonable expectation of privacy;
  - e. Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection;
  - f. Exposing one's intimate parts in nonconsensual circumstances;
  - g. Sexually-based stalking and/or bullying.
4. **Retaliation.** Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privileged secured by this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

First amendment activities do not constitute retaliation.

5. **Interference** includes actions that intentionally:
- a. Dissuade or attempt to dissuade reporting parties, responding parties, or witnesses from reporting or participating in an investigation;
  - b. Attempt to influence a complainant, respondent, or witness to make an inaccurate statement in the investigation;
  - c. Delay or disrupt, or attempt to delay or disrupt, any University processes related to this policy; and/or
  - d. Alter or attempt to alter the evidence provided to or received by investigative or disciplinary processes.
6. **False Statements.** Making a materially false statement in bad faith during any proceeding or process under this policy. No complaint is considered false solely because it cannot be corroborated.

WASHINGTON STATE UNIVERSITY  
EXECUTIVE POLICY MANUAL

Executive Policy #15  
Revision Approved August 20, 2021

## Policy Prohibiting Discrimination and Harassment

### APPENDIX 1:

#### Examples of Prohibited Discriminatory Conduct

Prohibited conduct may include, but is not limited to, the following examples, where the conduct violates the standards outlined above. These examples are provided to help the University community understand this policy; individual complaints of the nature listed below are thoroughly reviewed using the standards in the above section:

1. **Disparate treatment or disparate impact** may include:
  - a. Denying of educational or employment opportunities or benefits because of a person's protected class;
  - b. Giving a person less advantageous working conditions or educational opportunities because of their protected class; or
  - c. Maintaining a practice or policy that disproportionately impacts a protected class.
2. **Discriminatory harassment** may include:
  - a. Name calling or other verbal or physical behavior based on a protected class that is so severe or pervasive, and objectively offensive, that it substantially and unreasonably interferes with an individual's ability to participate in a WSU program or activity;
  - b. Physical assault, or threatening or causing physical harm, extreme verbal abuse, or other conduct that threatens or endangers the health or safety of any person;
  - c. Intimidation, including implied threats or acts that cause a reasonable fear of harm in another;
  - d. Hazing, as defined in *WAC* 504-26-206; or
  - e. Cyber harassment.
3. **Sexual harassment** may include:
  - a. Sexually explicit jokes, comments about another's physical appearance, and/or displaying of media with sexual content that is so severe or pervasive, and objectively offensive, that it substantially and unreasonably interferes with an individual's ability to participate in a WSU program or activity;
  - b. Persistent, unwanted attempts to change a professional relationship to an amorous relationship;
  - c. Subtle propositions for sexual activity or direct propositions of a sexual nature; or
  - d. Uninvited letters, emails, telephone calls, or other correspondence referring to or depicting sexual activities that are so severe or pervasive, and objectively offensive, that it substantially and unreasonably interferes with an individual's ability to participate in a WSU program or activity.

## Policy Prohibiting Discrimination and Harassment

### APPENDIX 1:

#### Examples of Prohibited Discriminatory Conduct

4. **Quid pro quo** may include:
  - a. Direct or implied threats that submission to sexual advances is a condition of employment, work status, promotion, grades, work references, or letters of recommendation.
5. **Sexual misconduct** may include:
  - a. Nonconsensual sexual contact;
  - b. Causing or attempting to cause the incapacitation of another person to gain sexual advantage over such other person;
  - c. Invading another person's sexual privacy;
  - d. Engaging in voyeurism;
  - e. Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection; or
  - f. Possessing and/or distributing child pornography.
6. **Stalking** may include:
  - a. Engaging in a course of conduct in-person, electronically, or through a third party that is directed at a specific person that would cause a reasonable person to:
    - i. Fear for their safety or the safety of others;
    - ii. Fear for harm to their property or the property of others; or
    - iii. Suffer substantial emotional distress.
7. **Intimate partner violence** may include:
  - a. Pervasive threats of physical violence towards a romantic partner or their pet;
  - b. Physical assault towards a sexual partner;
  - c. Severe and pervasive negative comments towards an intimate partner made to gain control over that partner; or
  - d. Controlling behavior, such as limiting a romantic partner's access to joint finances, legal paperwork, family, friends, and/or transportation.

## Policy Prohibiting Discrimination and Harassment

### APPENDIX 1:

#### Examples of Prohibited Discriminatory Conduct

8. **Retaliation** may include:
  - a. Making threats or intimidating a witness, complainant, or respondent in an attempt to prevent them from participating in an investigation; or
  - b. Making statements that cause a witness, complainant, or respondent to believe that participating in an investigation would be harmful to their career or academic opportunities.
9. **Interference** may include:
  - a. Asking a witness, complainant, or respondent to provide false information to an investigator or disciplinary body;
  - b. Unreasonably delaying participation in an investigation; or
  - c. Sharing false information to a witness, complainant, or respondent in order to disrupt an investigation.
10. **Knowingly false allegations** may include:
  - a. Falsely filing a complaint of discrimination against another individual whom the complainant dislikes or disagrees with;
  - b. Falsely filing a complaint of stalking against an individual in an attempt to improperly remove them from campus; or
  - c. Falsely filing a complaint of sexual harassment against an individual to harm their reputation.
11. **Violation of discrimination law** may include:
  - a. Failing to accommodate a disability, meaning refusing to offer reasonable accommodation to an individual with a disability, which results in the individual being denied an educational or employment opportunity.

## Policy Prohibiting Discrimination and Harassment

### APPENDIX 2:

#### Examples of Protected Speech

The following examples may be protected speech, depending on the content and context. These examples are provided to help the University community understand this policy; individual situations, content, and intention are thoroughly reviewed to determine whether or not the conduct is considered protected speech:

1. **Protected verbal conduct** may include:
  - a. An individual uses some offensive language to convey a political message.
  - b. An individual makes political statements, with which others disagree.
2. **Protected expressive conduct** may include:
  - a. An individual wears a t-shirt to protest political activity.
  - b. An individual engaged in some symbolic activity that others find offensive to convey their concern; for example, the individual burns a flag or erects a statue to convey a political message.
  - c. A group of individuals engages in a silent parade to show support for an organization.