

TEMPLE UNIVERSITY

POLICIES AND PROCEDURES

Title: Preventing and Addressing Discrimination and Harassment
Policy Number: 04.81.11
Issuing Authority: Office of the President
Responsible Officer: University Counsel

Date Created: January 8, 2010
Date Last Amended/Reviewed: November 2022
Date Scheduled for Review: January 2024
Reviewing Offices: Office of University Counsel; Office of Equal Opportunity and Compliance

Scope of Policy

The university is committed to providing a workplace and educational environment, programs, and activities, free of unlawful discrimination and harassment. This policy does not allow curtailment or censorship of constitutionally protected expression. This policy is based on federal, state, and local laws, including but not limited to Executive Order 11246, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, Title IX of the Education Amendments of 1972, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Genetic Information Nondiscrimination Act of 2008, the Pennsylvania Human Relations Act, and the Philadelphia Fair Practices Ordinance.

Definitions

Complainant:

A person who has allegedly experienced conduct that violates this policy.

Complaint:

Allegation(s) of discrimination, harassment, and/or retaliation, filed in good faith and in accordance with the complaint procedures of the university.

Discrimination:

Disparate treatment of a person based on one or more of that person's Protected Characteristics/Statuses, excepting any treatment permitted or required by law.

Harassment:

Unwelcome conduct directed against a person based on one or more of that person's Protected Characteristics/Statuses, which conduct is so severe or pervasive that it interferes with an individual's employment, academic performance or participation in university programs or activities, and creates a working, learning, program, or activity environment that a reasonable person would find intimidating, hostile or offensive.

Protected Characteristics/Statuses:

Age, color, disability, marital status, national or ethnic origin, race, religion, sex (including pregnancy), sexual orientation, gender identity, veteran status, and genetic information.

Respondent:

A person who has allegedly engaged in conduct that violates this policy.

Supervisor:

As used throughout this Policy, “supervisor” refers to any person who has authority to undertake or recommend tangible employment decisions affecting an employee or academic decisions affecting a student; or to direct an employee’s work activities or a student’s academic activities.

Policy

The university does not tolerate unlawful discrimination or harassment in the workplace, academic setting or its programs or activities based on an individual’s age, color, disability, marital status, national or ethnic origin, race, religion, sex (including pregnancy), sexual orientation, gender identity, genetic information, or veteran status. This policy is intended to be consistent with applicable federal, state, and local laws and other university policies. This policy does not allow curtailment or censorship of constitutionally protected expression and will not be applied in a way that infringes upon an individual’s constitutional rights of freedom of expression. The Office of Equal Opportunity Compliance (“EOC”) is responsible for enforcing this policy on behalf of the university and has complaint procedures available to enable it to do so.

All university employees are responsible for successfully completing the university’s online non- discrimination, anti-harassment, and anti-retaliation training upon initial employment and from time to time thereafter as determined in the sole discretion of the president or the president’s designee.

In addition, managers and supervisors are responsible for:

- knowing and understanding this policy.
- explaining this policy to persons under their supervision.
- taking appropriate action to prevent unlawful discrimination and harassment.
- being receptive to concerns and complaints of unlawful discrimination and/or harassment.
- taking appropriate action (including consultation with EOC, EO Ombudspersons, Human Resources, and/or the university’s Title IX Coordinator) when they become aware of potential violations of this policy; and
- preventing any retaliation against the complainant.

Failure of a manager or supervisor to perform their responsibilities under this policy will be reflected in their performance evaluation and may subject them to disciplinary action, up to and including termination of employment.

This policy with the EOC complaint procedures is accessible online and in printed materials. In addition, this policy is included in online and live training offered by EOC, the Department of Human Resources, and the Division of Student Affairs.

A. Procedures for Resolving a Complaint

Any present or former employee of the university, student, applicant for admission or employment, or participant in a university program or activity who believes they have been discriminated against or harassed in violation of law or this policy, in addition to seeking assistance from the Title IX Coordinator and/or Human Resources, may contact EOC to pursue a formal or informal complaint. Any such complaint should be made within 300 calendar days of the incident.

For most complaints of unlawful discrimination or harassment, EOC or their designee will utilize the complaint resolution process outlined below. Investigation and resolution of allegations of sexual harassment will be handled in accordance with the university's policy on Preventing and Addressing

Sexual Misconduct.¹

The informal and formal complaint procedures set forth below are internal administrative procedures of the university.² These informal and formal complaint procedures are supplemental to, and are not intended to displace, other disciplinary procedures set forth in any applicable collective bargaining agreement and in any applicable rules and regulations of the Faculty Senate.

1. Informal Resolution Procedures

Informal complaints may be oral or written. Problems are sometimes easier to resolve when an informal atmosphere encourages people to identify the difficulty, talk it out, and agree on how to deal with it. Use of the informal procedures set forth below is not a prerequisite to initiating a formal complaint.

a. Whom to Contact:

Any person who believes that they have experienced prohibited discrimination and/or harassment may make an informal complaint to the Title IX Coordinator, EOC, IDEAL, Human Resources, and/or any Equal Opportunity Ombudsperson.

b. Ombudsperson's Role and Responsibilities:

Equal Opportunity Ombudspersons shall be designated annually by the appropriate university officials and shall be knowledgeable about

¹ For more information, see <https://sexualmisconduct.temple.edu/policies/preventing-and-addressing-sexual-misconduct>.

²As to those forms of harassment that also violate local, state, or federal law, an aggrieved party may also file a complaint with the appropriate local, state, or federal agency or in a court with jurisdiction

discrimination, harassment, and retaliation matters and trained to assist in understanding and resolving such matters. Ombudspersons should be sensitive to the feelings, rights, and interests of all parties, and have demonstrated ability to handle confidential and sensitive matters in a discreet manner. A sufficient number of ombudspersons should be designated each year to afford reasonable access to them at all university campuses. A list of current Equal Opportunity Ombudspersons is published on EOC's website (www.temple.edu/eoc).

c. Informal Resolution Process

An individual receiving an informal complaint or an inquiry from a respondent will treat it as privately as possible, as detailed below. They will advise the complainant and respondent about support services available at the university, and the availability of both formal and informal complaint resolution procedures. If requested by the complainant, and circumstances allow, the individual receiving the complaint will assist in attempting to resolve the complaint informally. Such assistance may involve, for example, advising and assisting the complainant in communicating their concerns with the respondent in an appropriate manner, or exploring other possible resolutions.

Alternatively, the complainant may ask the individual receiving the complaint for a meeting with the respondent or to explore other possible resolutions. Other university personnel, such as department chairs, deans, or administrators may be asked to assist in resolving an informal complaint.

Anyone with an inquiry or an informal complaint may bring another member of the university community to discussions with the designated ombudsperson, as long as that person agrees to be bound by the privacy expectations of this policy.

d. Privacy & Confidentiality

During informal resolution, all reasonable efforts will be made to ensure the privacy of information received, including the identities of the parties; however, appropriate university officials, including the university's Title IX Coordinator, may be notified in order to best address complaints and ensure the safety of the university community. If, due to the nature and/or circumstances of the alleged behavior, it is not possible to conduct a review of, or resolve the complaint and continue to maintain the privacy of the information received, the complainant will be informed and be given the options of proceeding (with disclosure of identity) or withdrawing an informal complaint. In some circumstances, however, the university is required to balance such a request to withdraw a complaint with the university's interest in protecting the safety of its community. This decision will be made by appropriate university officials, depending on the substance of the complaint, but may include the university's Title IX Coordinator, the Vice President for

Public Safety, the Dean of Students (for student matters), and/or the Associate Vice President for Human Resources (for employee matters), or their designees, in conjunction with the Office of University Counsel as well as any other necessary university offices. If the university proceeds with an investigation or other response, then the university will notify the complainant before the respondent is contacted.

e. Additional Resources

Confidential resources are also available for those who do not currently wish to engage in an internal process but are interested in discussing their experience.

Students who have experienced discrimination/harassment can report confidentially to:

Tuttleman Counseling Services

T: 215.204.7276

<http://www.temple.edu/studentaffairs/counseling/>

Student Health Services

T: 215.204.7500

<http://www.temple.edu/studenthealth/>

Employees who have experienced discrimination/harassment can report confidentially to:

Employee Health Services

T: 215.204.2679

<http://www.temple.edu/employeehealth/>

Employee Assistance Program

T: 1.888.267.8126

<http://www.temple.edu/hr/departments/benefits/eap.htm>

Students and employees who have experienced discrimination/harassment can report confidentially to:

The Psychological Services Center (PSC)

T: 215.204.7100 or e-mail psc@temple.edu to request an appointment.

The PSC is located in Temple University's Entertainment and Community Education Center (ECEC) at 1509 Cecil B Moore Ave, Suite 420, Philadelphia, PA 19121.

2. Formal Complaint Resolution

a. Filing of Complaint

Members of the university community who believe that they have experienced discrimination and/or harassment may bring a formal complaint of discrimination and/or harassment by filing a written complaint directly with the university's EOC, Human Resources, or Title IX Coordinator. A person is

not required to utilize informal resolution procedures before filing a formal complaint.

b. Investigation

The university's EOC office or their designee will be responsible for ensuring a prompt investigation of a formal complaint. The purpose of the investigation is to establish whether there is a reasonable basis for believing that a violation of this policy has occurred. The investigation may entail interviews of the complainant, the respondent, and other persons believed to have pertinent factual knowledge. Depending upon the nature of the formal complaint, EOC may work in conjunction with Human Resources, the Title IX Coordinator, Student Conduct, Campus Safety Services, or other appropriate administrative offices in conducting a prompt investigation of the complaint. During such investigations, every reasonable effort will be made to protect the privacy rights of all parties, but confidentiality cannot be guaranteed.

c. Opportunity To Be Heard

The investigation will afford the respondent an opportunity to examine and respond to the allegations. The respondent will be informed of the identity of the complainant, unless the respondent has a fair opportunity to respond to the allegations without such disclosure. If the respondent is a Temple University student, the university may utilize its Student Conduct Code as the grievance procedure.

d. Determination

Possible outcomes of the investigation are: (a) a determination that the allegations are not substantiated, (b) a negotiated resolution of the complaint, or (c) a determination that more likely than not a violation of this policy has occurred. EOC, the Title IX Coordinator, Human Resources, or their designee will inform the parties promptly, in writing, about the outcome of the investigation.

3. Formal Disciplinary Proceedings

If the result of the investigation is a determination that it is more likely than not that a violation of this policy has occurred and a negotiated resolution cannot be reached, then the appropriate university officer will initiate formal disciplinary action according to the Employee Manual, Rules of Conduct, Faculty Handbook, applicable collective bargaining agreement, Student Conduct Code, or other applicable guiding document or procedure given the respondent's status at the university.

B. Sanctions

Any member of the university community who engages in violation of this policy is subject to the full range of disciplinary action, up to and including separation from the

university.

C. Retaliation Prohibited

Threats, other forms of intimidation, and retaliation in any form against any member of the university community who exercises their right to initiate a complaint or inquiry in good faith, or who provides information as a witness in an investigation under this policy is strictly prohibited and will itself be cause for appropriate disciplinary action.

Notice

This policy is published on the university's policies and procedures website (policies.temple.edu). Hard copies are available in the EOC office.

Notes

1. History:

Initial Policy Effective Date: January 8, 2010

Last Amended:

August 2020

November 2022: Updated to reflect current Bylaws and job titles.

2. Cross References/Appendix:

- Policy #04.82.02, Preventing and Addressing Sexual Misconduct
- Policy #04.81.01, Ratification of Nondiscrimination Policy
- Policy #04.81.02, Nondiscriminatory Policy as to Students
- Policy #04.81.03, Ethnic Intimidation Policy
- Policy #04.83.01, Temple University AIDS Policy
- Policy #03.70.12, Student Conduct Code
- Policy #02.78.02, Temple University Faculty Handbook
- Policy #04.10.01, Temple University Employee Handbook