

Administrative Policy 29: Discrimination, Harassment, and Retaliation	Issued: Revised: March 11, 2021 December 12, 2019 August 5, 2008	Reference: Regent Policy 14-6 Discrimination, Harassment, and Retaliation
	Institution Approval:	
	Reviewers: Title IX Equity Diversity Inclusion Dean of Students Human Resources	Maintained By: Human Resources

29.01 Scope

This policy applies to all areas of the University of Wisconsin-Parkside programs, activities, employment practices and operations, including the conduct of all students and employees that arises out of their employment, educational or academic status, as well as to the conduct of all guests, visitors, vendors, contractors, subcontractors and others who do business with the University of Wisconsin-Parkside

29.02 Purpose

The purposes of this policy are to express the University of Wisconsin-Parkside commitment to providing an environment free of bias, prejudice, discrimination, harassment, and retaliation as well as state in policy the University of Wisconsin-Parkside commitment against discriminatory conduct and assign oversight responsibility.

29.03 Policy Statement

The University of Wisconsin-Parkside is committed to maintaining an academic and work environment free of bias, prejudice, discrimination, discriminatory harassment, or retaliation for all students and employees. Discrimination is inconsistent with the efforts of the University of Wisconsin-Parkside to foster an environment of respect for the dignity and worth of all members of the university community and to eliminate all manifestations of discrimination within the university. The University of Wisconsin-Parkside is also committed to the protection of individual rights under the First Amendment (and related principles of academic freedom) and to preserving the widest possible dialogue within its educational environment.

Discrimination or discriminatory harassment that is based upon an individual’s characteristics as protected under state law or federal law (“protected status”) or university policy is prohibited. Harassment is a form of discrimination and is prohibited. In addition, any form of retaliation against students or employees is prohibited. Use of institutional technology (computers, email systems, voicemail systems, and webpages) in any manner for the purposes of discrimination, discriminatory harassment, or retaliation is prohibited. Any person who believes they have been subjected to this type of prohibited activity should immediately report it to the appropriate institution official or office regardless of who the offender may be.

The following protections shall apply in regard to an individual’s protected status:

Students

No student may be denied admission to, or participation in or the benefits of, or be discriminated against in any service, program, course or facility of the University of Wisconsin-Parkside on the basis of race, color, creed, religion, age, sex, sexual orientation, gender identity or expression, national origin, ancestry, disability, pregnancy, marital or parental status, or any other category protected by law, including physical condition or developmental disability as defined in Wisconsin Statutes §51.01(5).

Employees

No employee may be discriminated against on the basis of race, color, creed, religion, age, sex, sexual orientation, gender identity or expression, national origin, ancestry, disability, pregnancy, marital or parental status, genetic information, arrest record, conviction record, military service, veteran status, use or nonuse of lawful products off the employer's premises during nonworking hours, declining to attend a meeting or participate in any communication about religious matters or political matters, or any other category protected by law. This provision includes employment-related actions, such as recruitment, interviewing, testing, screening, selection, placement, classification, evaluation, transfer, promotion, training, compensation, fringe benefits, layoffs, and/or dismissal.

29.04 Definitions

The following definitions shall be used in determining whether a particular course of conduct constitutes discrimination or discriminatory harassment under this policy:

- A. **Discrimination** is conduct that adversely affects any aspect of an individual's employment, education, or participation in an institution's activities or programs, or has the effect of denying equal privileges or treatment to an individual on the basis of that individual's protected status or another category as defined in this policy.
- B. **Discriminatory Harassment** is a form of discrimination consisting of unwelcome verbal, written, graphic, or physical conduct that:
 - 1. is directed at an individual or group of individuals on the basis of the individual or group of individuals' actual or perceived protected status, or affiliation or association with person(s) within a protected status (as defined above); and
 - 2. is sufficiently severe or pervasive so as to interfere with an individual's employment, education or academic environment or participation in institution programs or activities and creates a working, learning, or living environment that a reasonable person would find intimidating, offensive or hostile.

To constitute prohibited harassment, the conduct must be both objectively and subjectively harassing in nature. Harassment may include but is not limited to verbal or physical assaults, threats, slurs or derogatory or offensive comments that meet the definition set forth in this policy. Harassment does not have to be targeted at a particular individual in order to create a harassing environment, nor must the conduct result in a tangible injury to be considered a violation of this policy. Whether the alleged conduct constitutes prohibited harassment depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs and the status of the individuals involved. Sexual harassment is defined under Regent Policy 14-2 and is regulated through existing institutional policies and procedures.

- C. **Retaliation** is defined as adverse action taken against an individual in response to, motivated by or in connection with an individual's complaint of discrimination or discriminatory harassment, participation in an investigation of such complaint and/or opposition to discrimination or discriminatory harassment in the educational or workplace setting.

29.05 Responsibility to Report

All members of the University community should report incidents of harassment or discrimination to support the University policy.

To assure the University is free of prohibited harassment and discrimination, university administration, deans, department heads, faculty members, directors and supervisors are required to report all incidents of harassment and discrimination that they have witnessed or been advised of.

The most appropriate recipients of reports are:

1. Dean of Students if the alleged prohibited conduct is by a student;
2. The Office of Human Resources if the alleged prohibited conduct is by an employee, including a student employee; and
3. The Office of Human Resources if the alleged prohibited conduct is by a visitor, vendor, or other third party.

It is not always easy to interpret words or actions that may be ambiguous and one may think are inappropriate. It is also not always easy to understand why one's words or actions are unwelcome. Therefore, the offices noted above are available to discuss the circumstances and address matters before they become severe or pervasive.

If a report is made to any of these offices, and that is not the appropriate office to receive the report, it becomes the responsibility of that office to forward the report to the appropriate office. If any of the persons at these offices are implicated, or if a conflict of interest arises, the report should be made to the Office of Human Resources. If that office is implicated, the report should be made to the Vice Chancellor for Finance and Administration or Provost and Vice Chancellor for Academic and Student Affairs.

29.06 Reporting a Harassment and/or Discrimination Complaint

All individuals who believe they have been harassed or discriminated against should file a written complaint with the appropriate individuals or offices cited above within 300 days of the incident. The written complaint should identify the parties involved, describe the harassing behavior, indicate when and where it occurred, and identify by name or description any witnesses. All complaints will be reviewed on a case by case basis in accordance with this policy. Due consideration will be given to the protection of individual First Amendment rights to freedom of speech, expression, and academic freedom.

Complaints shall be reviewed for informal or formal resolution.

Informal resolution would have the goal of ending the offensive behavior and resolving the concern rather than assessing blame and exacting a penalty. If a concern can not be resolved informally, or if the behavior is so serious or persistent as to warrant a disciplinary action it should be handled through formal procedures.

Formal resolution is to determine if the UW-Parkside policy on discrimination, harassment, and retaliation has been violated and, if so, to exact disciplinary sanctions and/or prescribe a course of action that will resolve the situation.

Complaints should be promptly reported so that appropriate action may be taken in a timely manner. However, the late reporting of complaints does not prevent appropriate remedial action.

Any conduct that may be in violation of this policy will be investigated, regardless of whether a complaint is filed, and appropriate remedial action will be initiated. Complainants working under state or federal grants may have additional complaint rights and should contact the Office of Human Resources for assistance.

29.08 Investigation and Disposition of the Complaint

Every effort shall be made to complete the review/investigation of a complaint within 60 days of the report of the complaint. Extensions of the time frame may be necessary in some circumstances.

The Dean of Students or Director of Human Resources or designees, are responsible for the following:

1. Review each complaint and determine if the complaint was brought within the 300 days of the alleged discriminatory action;
2. Provide procedural advice and counsel to the complainant, determine whether the informal or formal resolution process is appropriate, and refer the complainant if/when appropriate to other more relevant complaint and/or grievance processes, or the UWS 17 Student Nonacademic Disciplinary Procedures;
3. Strive to complete the investigation of the complaint within 60 days of receipt where no other complaint, grievance, and/or conduct process applies to the subject of the complaint.

Informal Process – If an informal resolution is warranted the appropriate office shall meet with the individual accused of the offending behavior to explain the concern and to get a response. The person who has raised the concern may or may not be present, and that individual's identity will be revealed only with their consent. While informal resolution may result in some mutually agreeable action, such as an apology or behavior agreement, no record of a complain resolved informally will be placed in the accused personnel file or student record.

Formal Process - The appropriate office will conduct a prompt, thorough, and impartial investigation of the complaint in the manner they deem necessary. The parties to the complaint will each have an opportunity to be heard during the investigation. The parties will also be informed of the status of the investigation as deemed appropriate.

If it is determined that a violation of the University's policy has occurred, prompt remedial action shall be taken. The nature of the remedial action and the process for its implementation will depend upon the facts and circumstances. If remedial action involves the imposition of sanctions, appropriate disciplinary procedures will be used. The findings and intended actions shall be communicated to the complainant and the alleged respondent.

If it is determined that no violation has occurred, such findings shall be communicated to the complainant and the alleged respondent. If the results of an investigation show that the complainant knowingly filed false accusations of harassment or discrimination, or that a witness gave false statements, such individuals will be subject to the appropriate disciplinary action.

Sanctions imposed may be appealed through the appropriate appeals process. Student complainants shall have the right to appeal to the Board of Regents as permitted under WI Stats 36.12(2)(b).

29.07 Confidentiality/Privacy

The University has a duty to respond to allegations of discrimination (including sexual harassment) and, therefore, cannot guarantee absolute confidentiality once allegations are disclosed to university officials. The confidentiality/privacy of information disclosed during investigations or informal resolution efforts will be respected to the extent feasible and practical. This means that information about the complaint is shared only with those individuals within the University community who "need to know" to effectively investigate and/or resolve the complaint. Parties with a need to know may include witnesses or university officials who need to be informed of the complaint to cooperate with an investigation or to implement resolution. These parties will be advised that they should keep the information confidential/private in the best interests of all parties.

29.09 Retaliation Prohibited

All members of the University community shall not be subjected to harassment, intimidation, threats, coercion, or discrimination because they have filed a complaint, reported harassment or discrimination, or otherwise assisted with a protected investigation. This prohibition extends to the exercise of rights under any federal or state law protecting veterans.

The University will take every step necessary to protect the complainant and any witnesses against retaliation for reporting the harassment or discrimination or for participating in the investigation of a complaint. Any employee, faculty member, or student who retaliates against an individual who complains of harassment or discrimination, witnesses' harassment, or participates in the investigation of a harassment or discrimination complaint is in violation of University policy and is subject to appropriate disciplinary procedures. Complaints of retaliation should be reported as violations of this policy.

29.09 Sexual Harassment/Misconduct

UW-Parkside is committed to creating and maintaining a community environment that is free from relationship violence and harassment. UW-Parkside maintains a Sexual Harassment Policy that prohibits acts of relationship violence and sexual harassment. The university is committed to educating its community and promptly and effectively responding to and redressing conduct that violates such policy. Please see the Sexual Harassment Policy (Administrative Policy 36) for information and resources to identify, report, and respond to relationship violence and sexual harassment.

29.10 Consensual Relationships

Sexual behavior that is welcome or consensual does not constitute sexual harassment under the law. However, romantic relationships in situations where one individual has greater power or authority over another or where conflicts of interest exist frequently result in claims of harassment. Consensual relationships that might be appropriate in other circumstances are not appropriate when they occur between (1) an employee of the university and a student over whom the employee has or potentially will have supervisory, advisory, evaluative, or other authority or influence or (2) an employee of the university and another employee over whom the employee has or potentially will have supervisory, advisory, evaluative, or other authority or influence. Even where negative consequences to the participants do not result, such relationships create an environment charged with potential or perceived conflicts of interest and possible use of academic or supervisory leverage to maintain or promote the relationship. Romantic or sexual relationships that the parties may view as consensual may still raise questions of favoritism, as well as of an exploitative abuse of trust and power. Please see the Consensual Relationships Policy (Administrative Policy 45) for information on responsibilities and prohibited behavior

29.11 Related Policies and Information

UW-Parkside Administrative Policy 36 Sexual Harassment
UW-Parkside Administrative Policy 45 Consensual Relationship
Regent Policy 14-2 Sexual Violence and Sexual Harassment
Regent Policy 14-3 Equal Opportunities in Education: Elimination of Discrimination Based on Gender
Regent Policy 14-5 Measures to Alleviate Racism
Regent Policy 14-6 Discrimination, Harassment, and Retaliation
Regent Policy 14-8 Consensual Relationships
Regent Policy 14-10 Nondiscrimination on Basis of Disability

29.12 Review

The Title IX office, Equity Diversity Inclusion office, Dean of Students office, and Human Resources shall be responsible for updating this policy as needed and conducting an annual review of the policy. Recommendations for changes will be forwarded to the Chancellor's Cabinet for approval no later than June 1st and/or as required by UW System policy, federal, state, and local policy/law.