

WASHINGTON STATE UNIVERSITY
EXECUTIVE POLICY MANUAL

Executive Policy #15
Revision Approved January 16, 2014

Policy Prohibiting Discrimination, Sexual Harassment, and Sexual Misconduct

POLICY

Purpose

Discrimination in all its forms, including discriminatory harassment, sexual harassment, and sexual misconduct (including sexual assault and other sexual violence), destroys mutual respect and a trusting environment, can bring substantial personal harm to individuals, and violates individual rights. Such behaviors are prohibited and are not tolerated at WSU. This policy expresses WSU's commitment to maintain an environment free of all forms of discrimination.

This policy applies to all students, faculty, staff, and others having an association with the University, including but not limited to such personnel at all campuses and WSU employment sites. Definitions of terms follow below. In some cases, certain definitions from the Standards of Conduct for Students are incorporated into this policy and apply to *all* persons subject to this policy, notwithstanding the applicability of the student conduct procedure.

WSU is also committed to the principles of free inquiry and free expression; vigorous discussion and debate are fundamental to the University. This policy is not intended to stifle teaching methods or freedom of expression. Discrimination, as prohibited in this policy, is conduct that is neither legally protected as an expression of free speech, nor the proper exercise of academic freedom. Discrimination compromises the integrity of the University, its tradition of intellectual freedom, the trust and respect expected in the University community, and the rights of individuals.

Discrimination Prohibited

This policy prohibits discrimination on the basis of the following protected classes and/or characteristics:

- Race;
- Sex/gender;
- Sexual orientation;
- Gender identity/expression;
- Religion;
- Age;
- Color;
- Creed;
- National or ethnic origin;
- Physical, mental or sensory disability, including disability requiring the use of a trained service animal;
- Marital status;
- Genetic information; and/or
- Status as an honorably discharged veteran or member of the military.

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Discriminatory harassment, a form of discrimination, is also prohibited. (See also "Sexual Harassment Prohibited" below.) Discriminatory harassment is improper conduct toward a particular individual, individuals, or groups on the basis of one or more of the protected statuses indicated above, that is sufficiently severe or pervasive that it has the purpose or effect of:

- Creating an intimidating, hostile, or offensive environment; or
- Unreasonably interfering with the work, academic performance, living environment, personal security, or participation in any WSU activity.

Examples of behaviors that may constitute discrimination include, but are not limited to:

- Denying someone an employment or educational opportunity or benefit because of their gender, race, or disability;
- Treating individuals differently because of their national origin or age (for example, giving them less advantageous working conditions);
- Following a practice or policy that disproportionately impacts women or members of the military; or
- Name calling, jokes, or other verbal or physical behavior towards a person based on their religion, sexual orientation, or perceived sexual orientation.

Sexual Harassment Prohibited

Sexual harassment is a form of discrimination based on sex and/or gender and is prohibited by this policy. Sexual harassment encompasses unwelcome verbal or physical conduct of a sexual nature. Sexual misconduct, which includes sexual assault and other sexual violence, is a form of sexual harassment and also is prohibited by this policy (see below). Sexual harassment also encompasses "gender-based harassment," which means harassment of a non-sexual nature that occurs because of a person's sex and/or gender. It includes harassment based on the person's nonconformity with sex and/or gender stereotypes.

Quid pro quo sexual harassment occurs when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of any individual's employment or education; or
- Submission to or rejection of such behavior by an individual is used as the basis for employment or educational decisions affecting the individual.

Sexual harassment creates a **hostile environment** when behavior is sufficiently severe and pervasive to interfere with an individual's work or educational performance, or creates an intimidating, hostile, or offensive work or educational environment.

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Examples of behaviors that may constitute sexual harassment include, but are not limited to, the following:

- Physical assault;
- Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, work references, or letters of recommendation;
- Sexual behavior that is unwelcome. Such behavior may include, but is not limited to, the following:
 - Comments of a sexual nature;
 - Sexually explicit statements, questions, jokes, or anecdotes;
 - Unnecessary or undesirable physical contact;
 - Unwanted, offensive, and/or uninvited comments about another's physical appearance;
 - Display of pictures with sexual content;
 - Persistent, unwanted attempts to change a professional relationship to an amorous relationship;
 - Subtle propositions for sexual activity or direct propositions of a sexual nature;
 - Uninvited letters, e-mails, telephone calls, or other correspondence referring to or depicting sexual activities; and/or
 - Any of the above carried out via the Internet or social media ("cyber harassment").

Other offenses that may constitute sexual harassment when based on sex and/or gender include, but are not limited to:

- Threatening or causing physical harm, extreme verbal abuse, or other conduct, which threatens or endangers the health or safety of any person;
- Intimidation, which is defined as implied threats or acts that cause a reasonable fear of harm in another;
- Hazing, as defined in *WAC 504-26-206*;
- Bullying or workplace violence, as defined in *BPPM 50.30*;
- Domestic violence and dating violence;
- Stalking, as defined in *WAC 504-26-223*.

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Sexual Misconduct Prohibited

Sexual misconduct is a form of sexual harassment and is prohibited by this policy. The definition of sexual misconduct in WAC 504-26-221 is used for purposes of this policy. Sexual misconduct includes sexual assault and other sexual violence.

Reporting

WSU strongly encourages reporting of all forms of discrimination, sexual harassment, and sexual misconduct. WSU takes such reports very seriously. Anyone who believes they are a victim of any violation of this policy, or any third party who witnesses or becomes aware of a violation, is to take one or more of the following actions, as appropriate. NOTE: All WSU employees have additional obligations (see "Employee Reporting Responsibilities" below).

- Report the incident to the Office for Equal Opportunity or to a Title IX Co-Coordinator, who promptly reports the incident to the Office for Equal Opportunity. The list of Title IX Co-Coordination is available from the OEO website at:

<http://www.oeo.wsu.edu>

- Report the incident to Human Resource Services (regarding alleged misconduct by employees), which promptly reports the incident to the Office for Equal Opportunity.
- Report the incident to the Office of Student Standards and Accountability (regarding alleged misconduct by students), which promptly reports the incident to the Office for Equal Opportunity.
- Report the incident to an employee with supervisory or advisory responsibility, who promptly reports the incident to the Office for Equal Opportunity.
- For incidents on urban campuses, online campuses, or Extension facilities, report the incident to the designated Title IX Liaison for that area, who promptly reports the incident promptly to the Office for Equal Opportunity. The list of area Title IX Liaisons is available from the OEO website at:

<http://www.oeo.wsu.edu>

After an incident is reported, WSU takes appropriate steps to stop the discriminatory behavior, prevent its recurrence, and remedy its effects. These steps include a prompt, effective, and impartial investigation. (See "Investigation Procedures" below.)

The Office for Equal Opportunity, generally within one working day of its receipt of a complaint, provides written materials to the complainant summarizing relevant policies, procedures, and available resources. Such materials include a contact person for questions or comments regarding this policy and the complaint procedures.

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Reporting Criminal Behavior

WSU encourages students and others to report incidents of sexual misconduct, sexual assault, or other crimes or potential crimes to police. WSU's process under this policy is separate from the criminal process and can be pursued simultaneously. (See "Investigation Procedures" below.)

Confidential Consulting

Anyone who believes they are a victim of any violation of this policy is encouraged to consult with a licensed health care provider, psychologist, or counselor (see "Resources" below). By law, such professionals are able to assist victims confidentially and are exempt from legal obligations to report incidents for investigation, with some exceptions (for example, child abuse, elder abuse, certain threats of harm).

Employee Reporting Responsibilities

Incidents Involving Sexual Harassment or Sexual Misconduct

All WSU employees who have information regarding an incident or situation involving sexual harassment or sexual misconduct are required to promptly report the incident to the Office for Equal Opportunity or to one of the designated Title IX Co-Coordinators. The list of area Title IX Co-Coordinators is available from the OEO website at:

<http://www.oeo.wsu.edu>

The only exceptions to this requirement are those employees who are statutorily barred from reporting (for example, mental health care and health care providers who are acting in their capacities as mental health care or health care providers).

Incidents of Discrimination That Do Not Involve Sexual Harassment or Sexual Misconduct

WSU employees with supervisory responsibility must report all incidents of discrimination and harassment to the Office for Equal Opportunity, including incidents that do not involve sexual harassment or sexual misconduct. All other WSU employees are strongly encouraged to report incidents of discrimination and harassment that do not involve sexual harassment or sexual misconduct.

Interim Measures

In some cases, WSU employees with supervisory responsibility must take immediate action to end offending conduct and protect the well-being of the complainant. Supervisors must take such interim measures in consultation with HRS and the WSU Division of the Attorney General's Office. (See also "Investigation Procedures - Interim Measures" below.)

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Other Reporting

In addition, all employees should:

- Consider reporting incidents to police if suspicion exists that a crime was committed. For concerns about confidentiality laws (for example, FERPA), consult with the WSU Division of the Attorney General's Office;
- Report alleged incidents to a higher level supervisor and/or Human Resource Services; and
- Encourage complainant/third-party reporting individuals to consult with the Office for Equal Opportunity.

Sexual Harassment and Discrimination Awareness Training

All WSU employees are required to complete sexual harassment and discrimination awareness training. Individual units may require additional training.

Retaliation Prohibited

This policy prohibits retaliation. Retaliation includes any act that would dissuade a reasonable person from making or supporting a complaint, or participating in an investigation, under this policy. It includes any action or threat of action that could negatively affect another's employment, education, reputation, or other interest. **Retaliation is a separate and distinct violation of this policy.** Retaliatory acts should be reported immediately to the Office for Equal Opportunity and are handled promptly, effectively, and equitably.

Investigation Procedures

The Office for Equal Opportunity conducts prompt, fair, effective, and impartial investigations of incidents of alleged discrimination, sexual harassment, and sexual misconduct. For complete information regarding investigative procedures, consult the Office for Equal Opportunity's Procedural Guidelines for Responding to Allegations of Violation of the WSU Policy Prohibiting Discrimination and Sexual Harassment. To view the guidelines, select the Complaint Procedures link at:

<http://chr.wsu.edu/complaint-investigation/>

Investigations under this policy are subject to the following:

- **Confidentiality.** WSU takes confidentiality seriously, but limitations exist. Investigative information is shared with others on a need-to-know basis, including with investigators, witnesses, the accused individual, and relevant WSU officials, or as required or permitted by law. In some cases, the investigation file may be subject to requests for public records; WSU redacts identifying or other information when legally permissible. When a complainant requests confidentiality, WSU respects that request to the extent possible while meeting its legal obligations.

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- **Conflict of Interest.** An investigator does not participate in an investigation in which he or she has a conflict of interest. A conflict of interest means the existence of an interest that could reasonably affect or appear to affect the impartiality of the investigator.
- **Criminal Complaints.** Under this policy, a complainant has the right to file a criminal complaint with the police. The criminal process can be pursued simultaneously. WSU does not wait for the conclusion of a criminal case to investigate possible violations of this policy. In some cases, a temporary suspension of WSU's investigation may be necessary when requested by law enforcement. However, WSU's investigation resumes promptly once WSU is notified by law enforcement that it may proceed. An outcome reached in a criminal process does not necessarily determine the outcome of WSU's process.
- **Interim Measures.** WSU takes appropriate interim steps before a final resolution to support and protect the complainant, as needed. Such steps may be taken regardless of whether complainant wishes to pursue the complaint. WSU may impose a "no-contact" order, which typically includes a directive that the parties refrain from having contact with one another. Other interim measures include, but are not limited to, altering the academic, WSU housing, and/or WSU employment arrangements of the parties. When taking such steps, WSU seeks to minimize unnecessary or unreasonable burdens on either party; however, every reasonable effort is made to allow the complainant to continue in his or her academic, WSU housing, and/or WSU employment arrangements. Violations of such protective measures may lead to disciplinary action.
- **Participation of Parties.** When appropriate, WSU seeks the consent of the complainant to proceed with an investigation but informs each complainant that alleged violations of this policy may be investigated regardless of consent. If any party or witness declines to participate in an investigation, WSU continues the investigation to the extent possible. WSU, as an employer, expects all employees to participate and cooperate with all investigations.
- **Investigation Process.** The complainant and the respondent are given the opportunity to provide information and evidence to the investigator, including names of witnesses. The parties are also given the opportunity to provide oral and written statements. Except in extraordinary circumstances, both parties are given written notice of the outcome of the investigation, an opportunity to respond, and an opportunity to appeal. For cases in which the respondent/accused is a student, the opportunity to appeal is provided through the student conduct process. For other cases, the opportunity to appeal is provided through the Office for Equal Opportunity's procedural guidelines.
- **Standard of Proof.** WSU uses a "preponderance of the evidence" legal standard to evaluate allegations of violations of this policy, which means it is "more likely than not" that the behavior or incident in the complaint occurred.
- **Timeframes.** The Office for Equal Opportunity seeks to complete all investigations promptly after receipt of a complaint. An investigation of sexual assault, sexual misconduct, or domestic violence is completed within 60 calendar days unless there is good cause to extend that time frame.

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Enforcement and Disciplinary Sanctions

The University vigorously enforces this policy. Persons determined to have violated this policy are subject to sanctions imposed using the due process protections of applicable University policies and handbooks (e.g., 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 chosen sanction is to be adequately and appropriately severe to prevent future offenses. The sanctions that are imposed, or other actions taken, are reported to the Office for Equal Opportunity by the administrator who imposes the sanctions.

Malicious or Frivolous Allegations Prohibited

The University disciplines members of the University community who knowingly make false or frivolous allegations of discrimination, sexual harassment, or sexual misconduct. No complaint is considered malicious or frivolous solely because it cannot be corroborated.

Office for Equal Opportunity
French Administration, Room 225
Pullman, WA 99164-1022
509-335-8288
<http://www.oeo.wsu.edu>

RESOURCES

Other resources may also help in the resolution of reports of discriminatory or sexual harassment behaviors.

WSU Title IX Coordinator, Co-Coordinators, and Liaisons:

WSU Title IX Coordinator:
Kimberly Anderson
Lead Coordinator and
Interim Director of Office for Equal Opportunity
French Ad 225
anderson34@wsu.edu
509-335-8288

WSU Title IX Co-Coordinators and Liaisons:
For the list of current Title IX Co-Coordinators
and campus Liaisons, see the OEO website:
<http://www.oeo.wsu.edu>

Internal, Local, State, and Federal Resources:

WSU Pullman—Employee Assistance Program
Washington Building, Room G60
Pullman, WA 99164-2302
509-335-1744
<http://www.eap.wsu.edu/>

**Washington Department of Personnel
Employee Assistance Program**
(For employees at all WSU locations):
1-877-313-4455 (toll free)
<http://www.dop.wa.gov/EAP/>

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Internal, Local, State, and Federal Resources (cont.):

WSU Pullman—Counseling and Testing Services

280 Lighty Student Services
Pullman, WA 99164-1065
509-335-4511
<http://counsel.wsu.edu/>

WSU Tri-Cities—Counseling Services

Tri-Cities West Building 269 E
Richland, WA 99354
509-372-7153
<http://www.tricity.wsu.edu/counseling/>

WSU Pullman—Health and Wellness Services

Washington Building
Pullman, WA 99164-2302
509-335-3575
hws@wsu.edu

Human Resource Services

French Administration, Room 139
Pullman, WA 99164-1014
509-335-4521
<http://www.hrs.wsu.edu/>

WSU Police

Public Safety Building
Pullman, WA 99164-7300
509-335-8548

For Emergencies: Dial 911

WSU Spokane—Counseling Services

Academic Center 145C
Spokane, WA 99210-1495
509-358-7740
severing@wsu.edu

WSU Vancouver—Counseling Services

Student Services Center, rooms 111 & 113
Vancouver, WA, USA 98686-9600
360-546-9238
<http://studentaffairs.vancouver.wsu.edu/counseling-services>

Health and Wellness Services

(For students at all WSU locations)
24 Hour Consulting Nurse: 509- 335-3575

Regional Human Resource Services

Spokane: 509-358-7740
Tri-Cities: 509-372-7302
Vancouver: 360-546-9587

University Ombudsman

Wilson-Short Hall, Room 2
Pullman, WA 99164-4002
509-335-1195
<http://ombudsman.wsu.edu>
(Serving all campuses)

Alternatives to Violence of the Palouse, Inc.

24 hour crisis line: 1-877-334-2887 or 208-883-HELP or 509-332-HELP. Collect crisis calls accepted.

Pullman, WA Office

1125 NW Nye, Suite A
PO Box 37
Pullman, WA 99163
509-332-0552; Fax: 509-332-3314
Home@atvp.org

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Internal, Local, State, and Federal Resources (cont.):

U.S. Dept. of Education, Office for Civil Rights

Federal Office Building
915 Second Ave Room 3310
Seattle, WA 98174-1099
<http://www.ed.gov/ocr/>

U.S. Equal Employment Opportunity Commission

Federal Office Building,
909 First Ave Suite 400
Seattle, WA 98104-1061
<http://www.eeoc.gov/>

Washington State Human Rights Commission

Olympia Headquarters Office

711 South Capitol Way, #402
PO Box 42490
Olympia, WA 98504-2490
360-753-6770

Seattle District Office

Melbourne Tower #921
1511 Third Ave.
Seattle, WA 98101-1626
206-464-6500

Spokane District Office

Rock Point Plaza III
1330 North Washington St, Suite 2460
Spokane WA 99201
509-568-3196