



## Ohio Administrative Code Rule 3349-7-10 Non-discrimination and harassment.

Effective: November 11, 2024

---

### (A) Purpose

To establish a non-discrimination and harassment rule to promote compliance with state and federal laws as well as reinforce NEOMED's commitment to maintaining a professional and collegial work and learning environment in which all individuals are treated with respect and dignity. Every individual has the right to work and learn in a professional atmosphere.

### (B) Scope

This rule applies to all students, faculty, staff, employees and applicants for employment or admission to the university and its programs.

### (C) Definitions

- (1) "Abusive/bullying behavior" is the persistent repeated pattern of mistreatment from others in the workplace or the classroom that causes the victim physical, mental, or emotional harm. abusive/bullying behavior includes mistreatment that is abusive physically or verbally, and encompasses offensive conduct or behaviors, such as interference with completing or sabotaging work that has been done. Abusive or bullying behavior is different than that of constructive criticism or counseling to address and improve performance. Abusive or bullying behavior is unprofessional and inappropriate for the workplace or the classroom.
- (2) "Applicant" is an individual who has applied for either a specific position at the university or who has applied for admission to the university.
- (3) "Complainant" refers to any person who seeks recourse pursuant to this rule because they have reasonable cause to believe they experienced harassment or discrimination.



(4) "Complaint" refers to a statement by a complainant seeking recourse pursuant to this rule to address instances of harassment or unlawful discrimination. A complaint can be written or verbal when alleging harassment, abusive/bullying behavior, or discrimination.

(5) "Discrimination" occurs when an adverse employment or education action is taken that is based upon a protected class.

(6) "Equal education opportunity" means that all persons in a protected class shall have equal access to participate in educational activities.

(7) "Equal employment opportunity" means that all persons in a protected class shall have equal access to positions at the university, limited only by their ability to do their job.

(8) "Harassment" in the employment context is unwelcome verbal or physical conduct based on a protected class that unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

"Harassment" in the education context is unwelcome verbal or physical conduct based on a protected class that interferes with, denies, or limits an individual's ability to participate in or benefit from the university's educational programs and activities.

Harassment can take two forms: power differentials (quid pro quo) or hostile environment:

(a) Quid pro quo harassment exists when:

(i) There are unwelcome requests or demands based on a protected class, which may include but are not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of sexual nature; and

(ii) Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions adversely affecting such individual.

(b) Hostile environment in the employment context includes any situation in which there is harassing



conduct based on a protected class that is sufficiently severe or pervasive such that it unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

(c) Hostile environment in the education context includes any situation in which there is harassing conduct based on a protected class that is sufficiently severe, persistent, or pervasive that it interferes with or denies educational benefits or opportunities, from both a subjective (the complainant's) and an objective (reasonable person's) viewpoint. The determination of whether an environment is "hostile" is based on a totality of circumstances. However, a single or isolated incident of harassment may be severe enough to create a hostile environment.

(d) This definition may include behaviors defined in rule 3349-10-75 of the Administrative Code when that rule lacks jurisdiction to investigate a complaint, as well as complaints of intimidation on any protected class basis.

(9) "Protected class" and "protected status" are defined by state and federal law to include age, color, disability, ethnicity or shared ancestry, gender identity or expression, genetic information, national origin, race, religion, sex, sexual orientation, transgender status, status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, or veteran status. This definition is meant to protect individuals who identify as Jewish and are subject to antisemitic behaviors, including but not limited to rhetorical and physical manifestations of hatred toward Jewish or non-Jewish individuals and/or their property, or toward a Jewish community institution or religious facility.

(10) "Respondent" refers to a person or persons against whom an allegation of harassment, abusive/bullying behavior, or discrimination has been made pursuant to this rule.

(11) "Investigator" refers to a university official who decides whether this rule has been violated and makes decisions regarding sanctions, if appropriate. The assistant director, student conduct and Title IX is designated the investigator for complaints that contain a student respondent. The senior human resources generalist is the investigator for complaints that contain an employee respondent. If those responsible for investigating such complaints are the subject of a complaint, the president will name an appropriate party to investigate. If the president is charged with harassment, Abusive/bullying



behavior, or discrimination, the matter will come under the jurisdiction of the board of trustees, or their designees for handling.

(12) "Retaliation" refers to intimidation, threats, coercion, or other behaviors meant to interfere with the employment or educational right of a person or person(s) who reported alleged discrimination, harassment, or abusive/bullying behaviors, whether by the alleged or on behalf of the alleged.

(D) Policy statement

(1) The university is an equal education and employment institution operating under nondiscrimination provisions of Titles 33 and 41 of the Revised Code; Titles VI, VII of the Civil Rights Act of 1964, as amended; and Title IX of the Educational Amendments of 1972, as amended; Vocational Rehabilitation Act section 504; Vietnam Era Veterans' Readjustment Act, as amended; Age Discrimination in Employment Act of 1967, as amended; Title II of the Genetic Information Nondiscrimination Act of 2008; state of Ohio Executive Order 2019-05D and 20226D; state of Ohio administrative policy HR-14; and Americans with Disabilities Act, as amended as related to admissions, treatment of students, programs and activities, and employment practices.

(2) NEOMED seeks to promote an environment in which all students, faculty and staff interact on the basis of individual strengths and characteristics, without having such interactions shaped by generalizations or stereotypes based on a person's protected status and to encourage constructive thoughtful and sensitive behavior. Harassment, discrimination, and abusive/bullying behaviors are serious offenses that may be cause for disciplinary action.

(3) Discrimination, harassment, and abusive/bullying behaviors as defined in this rule are prohibited in every aspect of employment, including hiring, layoff, termination, transfer, promotion, demotion, rate of compensation, and any matter directly or indirectly related to employment. Such acts are also prohibited in the development, delivery, and assessment of all educational experiences designed for students.

(a) All faculty, staff and students have a responsibility for ensuring that NEOMED's working and learning environment is free from harassment or unlawful discrimination.



(b) The university reserves the right to take measures to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile work or learning environment.

(c) Abusive/bullying behavior may be addressed through measures such as remedial action(s), conflict resolution mechanisms, coaching, discipline, and/or additional civility education trainings.

(4) Retaliation against persons who file complaints or cooperate with the investigation of a complaint of discrimination and/or harassment is a violation of this rule, as well as the law, and is strictly prohibited.

(5) Employees who believe they have experienced harassment, abusive/bullying behavior, discrimination or retaliation may report the incident using the online form, or by speaking to their supervisor or the senior human resources generalist.

(6) Students who believe they have experienced harassment, abusive/bullying behavior, discrimination, or retaliation may report the incident using the online form or by speaking to the associate director, student conduct and Title IX.

Faculty, staff and students share the duty to report all instances of discrimination or harassment of which they are aware directly to the senior human resources generalist or the assistant director, student conduct and Title IX.

An employee or applicant for employment may also file a complaint with human resources or with an external agency.

(7) The duties and responsibilities of all departments or division under this rule include:

(a) Ensuring the management practices prevent discrimination and support equal employment opportunity;

(b) Providing information and resources to supervisors, managers, and employees in support of equal employment opportunities and non-discrimination;



(c) Ensuring that instances of discrimination are promptly referred to the department of human resources or student services.

(d) Ensuring that corrective action steps are properly implemented; and

(e) Consulting with the department of human resources or student services to meet obligations under this rule.

(8) The duties and responsibilities of the division of human resources and student services, as appropriate, include:

(a) Providing equal employment opportunity and non-discrimination information and resources;

(b) Investigating complaints of discrimination, harassment, or abusive/bullying behavior under the reasonable person standard and issuing action steps for correction where necessary.

(i) If the investigation determines that a person intentionally falsely accused another of discrimination, harassment or abusive/bullying behavior, appropriate actions will be recommended against the person.

(ii) Allegations of harassment, discrimination and abusive/bullying behavior often involve the collection, use and disclosure of sensitive personal information. All reasonable measures will be taken to maintain confidentiality. Information concerning a complaint may be provided to appropriate NEOMED officials on a need-to-know basis. Any person knowingly, willfully or negligently breaching confidentiality may be subject to sanctions or other appropriate action.

(iii) Subject to any limitations or disclosure requirements imposed by law, all information, whether oral, written or electronic, created, gathered, received or compiled through the course of a complaint is to be considered confidential by both the complainant and respondent, their representatives and advocates, witnesses and other officials designated by this rule. All information will be treated as "supplied in confidence for investigatory purposes." All closed investigatory files will be retained by the general counsel in accordance with the university's record retention rule.



(9) This rule will not be interpreted, administered or applied to infringe upon the academic freedom of any faculty, staff or student. Speech or conduct protected by the First Amendment to the United States Constitution; Sections 3 and 11 of Article I of the Ohio Constitution; or the university's free speech on campus rule or faculty bylaws is not harassment for purposes of this rule. The frank discussion of controversial ideas, the pursuit and publication of controversial research and the study and teaching of material with controversial content do not constitute harassment, provided these activities are conducted in an atmosphere of respect.

(10) This rule is not to be interpreted, administered or applied in such a way as to detract from the right and obligation of those in supervisory roles to manage performance and behavior and subsequently discipline employees and students, subject to managerial and instructional rules and procedures.

(11) Investigation procedures

(a) When a faculty member is charged with harassment, discrimination or bullying/abusive behavior, this rule and the procedures promulgated hereunder will be employed in lieu of the procedures outlined in rule 3349-3-77 of the Administrative Code, including censure and dismissal for just cause.

(b) Informal procedures

(i) All members of the NEOMED community are permitted to resolve complaints informally. Students who feel they have been harassed or discriminated against should discuss the matter with the associate director, student conduct and Title IX. Employees who feel they have been harassed or discriminated against should discuss the matter with the senior human resources generalist. The associate director or senior human resources generalist will provide the complainant a confidential forum for expressing concerns and exploring options for addressing them; advise the complainant on both informal and formal procedures for addressing their concerns.

(ii) After receiving a detailed statement of the complaint, the investigator may, with the permission of the complainant, to attempt to resolve the complaint by informal resolution by discussing the complaint with the respondent to seek a mutually acceptable resolution. If no resolution is reached,



the investigator will explain that the complainant may file a written complaint. Unless a written complaint is filed, no further action will be taken by the university except as authorized by the investigator.

(c) Formal procedures

(i) All members of the NEOMED community are permitted to file a written complaint using the online form at any time. Students should submit a formal written complaint with the senior human resources generalist or assistant director for student conduct and Title IX, who will investigate and adjudicate the matter.

(ii) Complaints must be filed within one hundred eighty days of the last alleged incident.

(iii) A complainant is permitted one support person to accompany them to investigatory or other meetings. The support person cannot be a family member or attorney, nor may it be a witness or party otherwise involved in the matter related to the complaint. The support person is not a participating party and may not speak on behalf of a party.

(iv) It may be necessary to place a faculty member, staff member or student on administrative leave/interim suspension during the investigation and resolution of a complaint. Such administrative leave/interim suspension will not be viewed as a disciplinary or punitive action. If the administrative leave involves a faculty member or staff member, the administrative leave will be with pay unless otherwise authorized by law.

(d) Investigation process includes the following steps

(i) The investigator will promptly notify the respondent of the formal complaint made against them including a general overview of the complaint details along with the rule under which the complaint was brought.

(ii) The investigator will interview the complainant, respondent, and other individuals with knowledge of the situation. The complainant and respondent may identify individuals with knowledge during their interview that the investigator may interview individuals at their discretion.





(iii) Following the investigation, the investigator will prepare a written report including the allegations, summary of information, findings, and recommendations to be implemented.

(iv) The written report will be released to the complainant and any other necessary parties, including the respondent. The report will also be placed in the appropriate personnel file or student file if the respondent is found to have violated this rule.

(e) Recommendations

(i) In making disciplinary decisions and recommendations, the investigator will take the following matters into consideration: the severity the offense; whether the offense was an isolated incident or involves repeated acts; presence of any mitigating and/or aggravating circumstances; and whether there was an imbalance of power between the parties.

(ii) Sanctions beyond education and training include, but are not limited to:

(a) Employee sanctions could include verbal reprimand, written reprimand, probation, suspension with or without pay, demotion and termination. The investigator may impose a sanction upon employees of up to, but no more than, a three-day suspension without pay, without consulting with the vice president of human resources.

(b) Student sanctions could include: informal reprimand, formal reprimand, probation, suspension or expulsion. The investigator may impose a sanction upon students of involuntary probation without consulting with the dean of the respective college.

(iii) If respondent is listed as key personnel on any federal award issued to university and is subject to discipline or removed from his/her position through either the informal or formal resolution process, the university will notify the funding source of any such action taken under this rule.

(f) Anonymous complaints will be investigated, to the extent possible, in a similar manner as is set forth in this rule, including the release of any written report or sanctions.



(12) All faculty, staff, and students will receive training on this rule and how to respond to incidents of harassment, including hate incidents that occur during a class or campus event.

(13) Campus security and university police will collaborate with state and local law enforcement or applicable student groups to provide a safe environment for student groups facing threats of terror attacks or hate crimes.