

3364-50-02 Nondiscrimination.**(A) Policy statement**

The university of Toledo does not discriminate on the basis of race, color, religion, sex, age, national origin, ancestry, sexual orientation, gender identity and expression, military or veteran status, the presence of a disability, genetic information, familial status, political affiliation, or participation in protected activities in its provision of employment and educational opportunities.

Discrimination, including discriminatory harassment, on any of those bases is strictly prohibited. Upon notice of possible discrimination, the university takes prompt and appropriate steps to determine what occurred, end a discriminatory practice or hostile environment if one has been created, and prevent its recurrence. Retaliation against anyone because he or she has made a complaint or served as a witness or otherwise engaged in activity protected by this policy is also strictly prohibited by this policy.

The university encourages anyone who believes he or she has been subjected to conduct in violation of this policy to file a complaint under this policy to ensure that the university has an opportunity to address prohibited conduct.

(B) Purpose

Through this and related policies, the university acknowledges and complies with its duties under Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, Sections 503 and 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, as amended, as well as relevant state and local laws, by setting forth comprehensive frameworks for receiving, processing, investigating, and resolving complaints.

This policy also provides the university community with necessary information regarding how to make complaints of alleged violations of this policy and what to expect from the investigation and resolution process.

(C) Scope

This policy applies to all faculty, staff, students, student organizations, and third parties (for example, vendors and visitors), and covers conduct that occurs in university programs and activities, on university property or at university sponsored events.

This policy addresses the reporting and processing of complaints alleging discrimination, including discriminatory harassment, based on race, color, religion, age, national origin, ancestry, military or veteran status, genetic information, familial status, and political affiliation, as well as complaints alleging retaliation for participation in activities protected under this policy.

Sex discrimination, sexual harassment, sexual violence, and discrimination or harassment based on sexual orientation, gender identity, or gender expression is also prohibited. However, the reporting and processing of complaints alleging sex discrimination, sexual harassment, sexual violence or other sexual misconduct (including such misconduct based on sexual orientation, gender identity, or gender expression) are addressed in a separate rule (3364-50-01 of the Administrative Code), as are complaints alleging retaliation for participation in activities protected under that rule.

Discrimination or harassment based on disability is also prohibited. However, the reporting and processing of complaints alleging discrimination and discriminatory harassment based on disability are addressed in a separate rule (3364-50-03 of the Administrative Code), as are complaints alleging retaliation for participation in activities protected under that rule.

The reporting and processing of complaints alleging discrimination, discriminatory harassment, or retaliation on multiple bases covered by two or more of these policies shall be handled under rule 3364-50-01 of the Administrative Code if one of the bases alleged is covered by the Title IX policy, and under this policy if none of the bases alleged is covered by the Title IX policy.

This policy should not be interpreted to impinge upon any constitutionally protected rights or privileges, and will not be used to impose discipline for speech that is protected by the First Amendment.

(D) Definitions

Complainant: The individual alleged to have experienced discrimination, harassment, or retaliation in violation of this policy. In certain circumstances, the university may assume the role of the complainant.

Days: Calendar days.

Discrimination: Negative or adverse treatment based on race, color, religion, age, national origin, ancestry, military or veteran status, genetic information, familial status, or political affiliation. (Sex discrimination, sexual harassment, and sexual violence, or other sexual misconduct, is discrimination but is addressed instead under rule 3364-50-01 of the Administrative Code (Title IX policy.)

Harassment: Physical, verbal, or non-verbal conduct of an offensive, intimidating or threatening nature based on an individual's race, color, religion, sex, age, national origin, ancestry, sexual orientation, gender identity and expression, military or veteran status, genetic information, familial status, or political affiliation that is sufficiently serious to deny or limit the individual's ability to participate in the university's educational program or working environment. Harassment is a form of discrimination. (Unwelcome conduct of a sexual nature is addressed instead under rule 3364-50-01 of the Administrative Code.)

Respondent: The individual alleged to have engaged in discrimination, harassment or retaliation in violation of this policy.

Retaliation: Adverse action taken against an individual because the individual has engaged in a protected activity (such as filing a discrimination complaint or participating in an investigation of a violation of law or policy). The adverse action can be tangible (such as the giving of a lower grade or unjustified discipline) or intangible (such as the making of verbal threats).

Sexual misconduct: Sexual misconduct is covered by rule 3364-50-01 of the Administrative Code and includes sexual harassment, sexual violence, sexual assault, conduct that exploits another person in a sexual and non-consensual way (such as voyeurism and non-consensual recording), stalking, dating violence, domestic violence, and indecent exposure. Sexual misconduct may also be discrimination, harassment, or violence based on sexual orientation, gender identity, or gender expression.

(E) Reporting alleged violations of this policy

(1) The equal opportunity coordinator and deputy equal opportunity coordinators and their designees are the only members of the university community who are authorized to act upon, investigate, and recommend sanctions or discipline for violations of this policy. Other faculty or staff receiving complaints of discrimination prohibited by this policy must immediately forward them to the equal opportunity coordinator.

(2) Where and how to file a complaint

Time for filing. Complaints should be reported timely to assure an effective investigation unhampered by faded memories or lost evidence, but in any event not later than three hundred days after the last act of alleged discrimination. Individuals who file complaints after this time may request a waiver, in writing, to the equal opportunity coordinator, setting forth the reason the complaint was not filed earlier.

Where to file. A complaint can be made by completing a complaint form available on the university's website at https://cm.maxient.com/reportingform.php?UnivofToledo&layout_id=17. The completed form also may be hand delivered, faxed, emailed, or mailed to the equal opportunity coordinator or any equal opportunity deputy coordinator.

Anonymous complaints. Anonymous complaints may be made to the toll-free compliance concepts hotline at 1-888-416-1308.

(3) Confidentiality

The university respects the privacy of the parties in responding to reports and complaints of discrimination and harassment, and shares information only on a limited, "need to know" basis, in accordance with federal and state privacy laws and the Ohio Public Records Act. Absolute confidentiality cannot be guaranteed, however.

(F) Interim measures

Appropriate interim measures coordinated by the equal opportunity coordinator or deputy equal opportunity coordinators may be available to a complainant who makes a report of alleged discrimination. Interim measures for students may include no-contact orders, changes to academic and living situations as appropriate, counseling, or other actions. Interim measures for employees may

include no-contact orders, reassignment, leave, modification to the place or manner of performing one's position, or other actions. The university administers interim measures in a manner that minimizes the burden on the complainant, while taking into account due process considerations with regard to the respondent and others, as appropriate.

Respondents or others who participate in the investigation of a complaint may contact the equal opportunity coordinator if they need assistance prior to the completion of the investigation or resolution procedures.

(G) Investigation procedures

- (1) The equal opportunity coordinator will expeditiously, and in no event later than seven days after receiving a report of alleged discrimination, assign the case to an appropriate deputy equal opportunity coordinator for investigation. The equal opportunity coordinator will document this step of the process in writing.
- (2) Within seven days of receiving the case assignment, the deputy equal opportunity coordinator or designee will contact the complainant and respondent to schedule in-person or telephonic interviews. University-provided email will be the primary means of communication used, and complainants and respondents are advised to check their university-provided email regularly.
 - (a) As part of the investigation, the deputy equal opportunity coordinator and/or designee will interview witnesses and review available evidence, as appropriate. The parties have an equal opportunity to present witnesses and evidence during the investigation and resolution processes.
 - (b) The investigation generally will be concluded within forty-five days after the complaint was received by the deputy equal opportunity coordinator or designee. This timeframe may be extended if circumstances warrant, such as during school breaks. The deputy equal opportunity coordinator or designee will notify the parties of any delays and the reasons for the delays.
 - (c) Complainants, respondents or witnesses may bring one non-attorney of their choice to their investigatory interviews. Advisors may be present during investigatory interviews but may

not speak, interrupt, or participate in the process, and will be asked to leave if they fail to comply. A bargaining unit representative will be permitted to attend and to participate in an interview of a bargaining unit member that may lead to disciplinary action if the bargaining unit member requests. Advisors are expected to make themselves available when meetings are scheduled; meetings will not be rescheduled due to the unavailability of anyone's advisor. The parties and their advisors are not permitted to record, photograph, or audio record meetings or proceedings.

- (d) At the investigation's conclusion, the deputy equal opportunity coordinator or designee will prepare a concise, written investigatory report that summarizes the factual findings, and will share the report with the equal opportunity coordinator and relevant university administrators.
- (e) The university uses the preponderance of the evidence or "more likely than not" standard in the investigation and resolution of complaints under this policy.
- (f) The deputy equal opportunity coordinator and/or designee will inform the complainant and the respondent in writing of the results of the investigation.

(H) Resolution

- (1) If the equal opportunity coordinator and deputy equal opportunity coordinator and/or designee conclude after investigation there is no reasonable cause to believe any university policy has been violated, the investigation ends.
- (2) If the equal opportunity coordinator and deputy equal opportunity coordinator and/or designee conclude after investigation that there is reasonable cause to believe a university policy has been violated, the case will be referred for further action as follows:
 - (a) Where the respondent is a student, the matter will be referred to the student conduct officer for appropriate corrective action or disciplinary proceedings under rule 3364-30-04 of the Administrative Code (student code of conduct).

- (b) Where the respondent is an employee covered by a collective bargaining agreement, the matter will be referred to the human resources for appropriate corrective action or disciplinary proceedings under the applicable collective bargaining agreement.
 - (c) Where the respondent is an employee not covered by a collective bargaining agreement, the matter will be referred to the human resources and the administrator with authority over the respondent for appropriate corrective action or disciplinary proceedings under the applicable policy.
 - (d) Where the respondent is not a university student or employee, the equal opportunity coordinator will determine the appropriate remedial actions.
- (3) The investigation and resolution of the complaint generally will be completed within sixty days, absent extenuating circumstances. The deputy equal opportunity coordinator or designee will provide the parties with updates regarding the status of the case at regular intervals.
 - (4) This policy provides for the prompt, reliable, impartial investigation and resolution of discrimination complaints. Any concerns regarding possible conflicts of interest of anyone in the process should immediately be brought to the attention of the equal opportunity coordinator or one of the deputy equal opportunity coordinators not involved in the investigation.

(I) Sanctions and remedies

The sanctions and remedies that may be imposed or available depend on the nature of the party's relationship to the university. Students found responsible for discrimination can be subject to discipline as explained in the student code of conduct, ranging from written assignments up to and including expulsion. Employees found to have committed discrimination can be subject to discipline as explained in the applicable collective bargaining agreement or university policy, ranging from an oral or written reprimand up to and including termination.

The university provides remedies to individuals who experience discrimination and to the campus community, as appropriate. Remedies may include educational programming, changes to policies and procedures, counseling, and opportunities to change educational, work, or living situations.

(J) Appeals

Any appeal rights and grounds for appeal shall be governed by the student code of conduct policy for students, the corrective action policy for non-bargaining unit employees, and the applicable collective bargaining agreement for bargaining unit employees.

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CERTIFIED ELECTRONICALLY

Certification

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