MISSISSIPPI STATE UNIVERSITY

Non-Discrimination and Anti-Harassment Policy

Policy

Mississippi State University is committed to assuring that the University and its programs are free from discrimination and harassment based upon race, color, ethnicity, sex, pregnancy, religion, national origin, disability, age, sexual orientation, gender identity, genetic information, status as a U.S. veteran, or any other status protected by state or federal law.

The University will not tolerate discrimination or harassment, as defined below, and is committed to preventing it or stopping it whenever it may occur at the University or in its programs. This policy will be interpreted so as to avoid infringement upon First Amendment rights of free speech. The University must be mindful of the tradition of academic freedom that includes the free exchange of ideas inherent in an academic community. A determination as to whether discrimination or harassment has occurred will be based upon the context in which the alleged conduct occurred.

Prohibited Conduct

Mississippi State University prohibits discrimination or harassment on the basis of race, color, ethnicity, sex, pregnancy, religion, national origin, disability, age, sexual orientation, gender identity, genetic information, status as a U.S. veteran, or other protected class, that adversely affects an individual’s employment or education. The University also prohibits deliberate false accusations of discrimination or harassment. It also is a violation of this policy for a supervisor or administrator to disregard or delay reporting an allegation of discrimination or harassment. In addition, retaliation against a person who has made a report or filed a complaint of discrimination or harassment, is a witness to discrimination or harassment, or has participated in an investigation of a complaint of discrimination or harassment is prohibited. See also MSU Policy 01.07, “Whistleblower” Policy.

Application

This policy applies to all employees, students, visitors, volunteers, applicants, or program participants at Mississippi State University. This policy prohibits discrimination and harassment in any University program or activity, which includes without limitation all academic, educational, research, extracurricular, athletic and other programs. However, in circumstances in which allegations of sexual misconduct (including sexual harassment) are made against a student, the University’s Sexual Misconduct Policy (OP 91.118) applies and shall take precedent over this policy.

This policy is not intended to address differences in opinion regarding the validity of employment decisions such as salary recommendations, promotion and tenure decisions, performance evaluations, hiring decisions, job classification decisions, transfers or reassignments, terminations and normal supervisory counseling. Nor is this policy intended to address behavior that does not constitute discrimination or harassment as defined in this policy. Offensive workplace behavior that does not
violate this policy should be addressed through other applicable policies and procedures, or by the appropriate supervisor or department.

Definitions

As used in this Policy, the following terms have the following meanings:

Harassment: Conduct (physical, verbal, graphic, written, or electronic) that is (1) unwelcome; (2) discriminatory on the basis of race, color, ethnicity, sex, pregnancy, religion, national origin, disability, age, sexual orientation, gender identity, genetic information, status as a U.S. veteran, or any other status protected by state or federal law; (3) directed at an individual or group in one of the protected classes outlined in this policy; and (4) so severe or pervasive and objectively offensive that it unreasonably interferes with the victim’s ability to participate in or to realize the intended benefits of an institutional activity, opportunity, or resource, unreasonably interferes with the victim’s work or living environment, or deprives the victim of some other protected right.

Sexual Harassment: Harassment (as defined above) of a sexual nature. Sexual harassment can be verbal, visual, or physical. It can be overt, as in the suggestion that a person could get a higher grade or a raise in salary by submitting to sexual advances (i.e. “quid pro quo”). The suggestion or behavior need not be direct or explicit—it can be implied from the conduct, circumstances, and relationships of the persons involved. Sexual harassment can also consist of persistent, unwelcome attempts to change a professional or academic relationship to a personal one. It can range from unwelcome sexual advances and inappropriate put-downs of individual persons or classes of people to serious physical abuses such as sexual assault. Examples could include without limitation unwelcome sexual advances; repeated and unwelcome sexually-oriented bullying, teasing, joking, or picturing; verbal abuse or demeaning comments of a sexual nature; commentary about an individual’s body, sexual prowess, or sexual deficiencies; touching, pinching, or brushing against another’s body; or displaying objects or pictures, including electronic images, which are sexual in nature and which create a hostile or offensive work, education, or living environment.

Retaliation: Retaliation against an individual for making a complaint of discrimination or harassment, for resisting discrimination or harassment, or for otherwise using or participating in the complaint resolution process, is a violation of University policy, and any such action is itself cause for disciplinary action.

Reports

In an effort to prevent or stop discriminatory or harassing behavior, the University has adopted specific avenues through which an individual can make his or her complaint known. With issues of discrimination or harassment, it is important to identify and remedy the situation as soon as possible.

Any employee, student, visitor, volunteer, applicant, or program participant of the University should report any discrimination and/or harassment that he/she experiences and/or observes to the appropriate individuals as soon as possible. No student or employee should assume that an official of the University knows about a particular situation.

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THIS POLICY HAS BEEN SUPERSEDED
All reports of discrimination or harassment can be made directly to an administrator or supervisor if necessary and appropriate under the circumstances, but preferably should be made directly to Human Resources Management or the Dean of Students Office. Human Resources Management is located at 150 McArthur Hall and can be contacted at 662-325-3713. The Dean of Students Office is located at 102 YMCA Building and can be contacted at 662-325-3611.

Reports may also be made on MSU’s Ethics Line (1-877-310-0424) and reporters may remain anonymous if desired. Remaining anonymous may, however, impact the ability of the University to investigate.

Any administrator or supervisor who knows of, or receives, a complaint of discrimination or harassment must promptly report the information or complaint to HRM or to the Dean of Students Office if a student is involved. Administrators or supervisors who fail to report the information promptly may receive disciplinary actions up to and including termination.

Complaint Resolution Procedure

The complaint procedure outlined below is the procedure by which all complaints of discrimination or harassment under this policy will be investigated and resolved, except for complaints of sexual misconduct made against a student in which case the University’s Sexual Misconduct Policy shall apply.

1. If the complainant is able and feels safe, he or she should clearly explain to the alleged offender that the behavior is objectionable and request that the behavior cease. If the complainant is not able or does not feel safe confronting the alleged offender, or the behavior does not stop after the complainant confronts the alleged offender, or if the complainant believes some adverse employment or education consequences may result from the discussion, he or she should notify the Office of Human Resources Management, the next highest level of administration or supervision, and/or the Office of the Dean of Students if a student is the alleged offender. Any administrator or supervisor who receives a complaint should promptly notify HRM and/or the Dean of Students Office (if a student is involved). Alternatively, a complaint may be filed on MSU’s Ethics Line and the complainant may remain anonymous. Remaining anonymous may, however, impact the ability of the University to investigate.

2. All complaints of discrimination or harassment will be reviewed by the Chief Human Resources Officer and, if a student is involved, the Dean of Students. In the event the alleged offender is a student, the Dean of Students Office will be responsible for handling the complaint. In all other events, the Chief Human Resources Officer will be responsible for handling the complaint. The Chief Human Resources Officer will first determine whether (1) an informal resolution, such as mediation, is acceptable to the complainant and appropriate under the circumstances, (2) if the complaint should be processed through another University dispute resolution procedure, or (3) if a formal complaint investigation is warranted. If a formal complaint investigation is warranted, the Chief Human Resources Officer will assign an investigator to the case. The investigator will serve as an unbiased neutral party whose responsibility is to collect data and facts.

3. If it is determined that a formal complaint investigation is warranted or if the complainant does not wish to participate in informal resolution, the complainant should submit a written, signed statement describing the basis for the allegation of discrimination or harassment as completely as possible. The complaint will be investigated by the assigned investigator. In the event a student is involved, the investigator will coordinate its investigation with the Dean of Students Office. The person against whom the complaint is filed will be notified when the investigator
determines that such notification will not interfere with the investigation. An employee may be placed on administrative leave during the investigation if necessary.

4. Each investigation will necessarily be different depending on the facts, circumstances, and witnesses. Generally, an investigation will include interviews with the complainant or complainants, with the person against whom the complaint has been brought, and with anyone else who might have information that would be helpful. The amount of time needed to conduct the investigation will depend in part on the nature of the allegations and the evidence to be investigated. The investigator will strive to complete the investigation within 30 days and provide the outcome of the investigation to the appropriate Vice President, Dean, and/or Department Head for the purpose of determining if any remedial actions are necessary. The complainant and alleged offender will also be notified in writing of the outcome of the investigation at this time. Within 15 working days of receipt of the outcome, the appropriate Vice President, Dean, and/or Department Head will notify the complainant and accused of any remedial action to be taken. If remedial action is taken, the University will follow up as appropriate to ensure that the remedial action is effective.

5. Either party shall have the right to appeal the outcome of the investigation and/or remedial action to the President or his/her designee pursuant to this policy. To exercise this right of appeal, a written appeal must be received by the Office of the President within ten working days after the date of the written notification of the decision that is being appealed. The President or his designee should be given a copy of the investigator's file and may request additional information if it is believed such information would aid the appeal. A decision by the President or his/her designee will be made within a reasonable time and the complainant and respondent will be notified in writing of the decision of the appeal. During the time of appeal and review, disciplinary action, if any, may be implemented and enforced.

Remedial Action

Individuals found to have engaged in discrimination or harassment in violation of this policy are subject to appropriate remedial action up to and including termination of employment or dismissal. In cases where complaints are found to be baseless or frivolous and made for improper motives, the complainant will be subject to appropriate discipline up to and including termination of employment or dismissal. Appropriateness of such action shall be based upon the nature of the investigation and the findings.

Additional Information

The University will endeavor to respect the privacy of all individuals involved in a manner consistent with the University's legal obligation to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations required by law.

The University reserves the right to investigate, resolve and/or report to the appropriate law enforcement authorities a complaint or report of discrimination or harassment regardless of whether the complainant ultimately desires the University to pursue the complaint.

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The complaint process in this policy does not replace the right of a complainant to pursue other options or remedies available to them. In addition to the University's channels, a person who believes that she or he has been subjected to discrimination or harassment may file a charge under the various jurisdictions of the Equal Employment Opportunity Commission or the U.S. Department of Education’s Office of Civil Rights. Information on filing charges with either of these agencies, including deadlines for doing so, may be obtained from each agency's website.

Review
The Chief Human Resources Officer is responsible for reviewing this operating policy every four years or as needed.