



## **NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

Mercer University (“the University”) is committed to maintaining a fair and respectful environment for living, work and study. To that end, and in accordance with federal, state and local law and University policies, the University prohibits harassment of or discrimination against any person because of race, color, national or ethnic origin, disability, marital status, veteran status, sex (including pregnancy, child birth or a medical condition related to pregnancy or childbirth), sexual orientation, gender identity, gender expression, genetic information, age, or religion (except in limited circumstances where religious preference is permitted by law), or any other protected status or characteristic as defined by law.

Incidents of unlawful harassment and discrimination will be met with appropriate disciplinary action, up to and including dismissal or expulsion from the University. The University will follow the Sexual Misconduct Policy found at <https://equityandcompliance.mercer.edu/> . All allegations of discrimination and harassment not covered by the University’s Sexual Misconduct Policy, based on the protected categories outlined above, will be handled pursuant to this policy.

### **Definitions:**

#### **Members of the University Community:**

“Members of the University Community” are any persons employed by, or affiliated with, the University in any way and persons participating in any University program or activity, including, but not limited to:

- (1) University faculty, staff, administrators, employees, and contractors of the University;
- (2) University students;
- (3) Volunteers and participants in any University program or activity; and
- (4) Guests and visitors to campus, to any property owned or leased by the University, or to any property owned or leased by any University-affiliated organization or group.

#### **Discrimination:**

“Discrimination” is defined as disparate treatment or unfavorable conduct directed at an individual based on any status or characteristic identified in this policy or as defined and protected by applicable law.

#### **Discriminatory Harassment:**

“Discriminatory harassment” is defined as unwelcome verbal, written or physical conduct based

on any status or characteristic outlined in this policy, which a reasonable person would consider intimidating, hostile or abusive. Discriminatory harassment may include slurs, taunts in the guise of jokes, disparaging references to others, use of epithets, stereotypes, comments, gestures, threats, graffiti, display or circulation of written or visual materials, taunts on manner of speech, and negative reference to customs when such conduct is based on or motivated by any status or characteristic identified in this policy or as defined and protected by applicable law.

### **Reporting:**

- A. Members of the University Community who wish to report discrimination or harassment by another member of the Mercer Community should contact the Associate Vice President of Equity and Compliance/Title IX Coordinator.

Upon receipt of a complaint of discrimination or harassment by a member of the University community, the Associate Vice President of Equity and Compliance/Title IX Coordinator will discuss the matter with the complainant and determine if the matter will be handled informally or formally through the process outlined below.

#### Informal Process

Use of the informal process is an opportunity to bring resolution to a complaint through awareness, education, and/or a facilitated discussion. During an informal process, the Associate Vice President of Equity and Compliance/Title IX Coordinator may request a written statement from the complainant outlining the nature of the complaint. In addition, the Associate Vice President of Equity and Compliance/Title IX Coordinator may meet with the complainant, the respondent, the respondent's supervisor, and/or with the next level supervisor(s), if applicable, in an attempt to resolve the matter informally. In the informal process, fact-finding occurs to the extent necessary to resolve the conflict and protect the interest of the parties and the University Community, but the Associate Vice President of Equity and Compliance/Title IX Coordinator does not decide as to whether the policy has been violated. The complainant or respondent always has the option to end the informal process and request a formal process. Informal resolutions may include, but are not limited to:

- Training;
- Changes to housing/work/classroom/campus arrangements;
- Informal discussion with person(s) whose conduct, if not stopped, could rise to the level of discrimination or harassment;
- Advisory discussion with the respondent's supervisor, and
- No contact directive to one or more of the parties.

#### Formal Process

If the informal process does not resolve the complaint, the informal process does not apply, or the complainant or respondent does not wish to resolve the issue informally, the following formal grievance procedures will be implemented for students, faculty members and employees.

1. Written Complaint and Response

The complainant shall submit a written complaint to the Associate Vice President of Equity and Compliance/Title IX Coordinator. The written complaint shall identify the complainant and the respondent, state on what basis they have been harassed or discriminated, the specific behaviors and/or actions they believe to be harassing or discriminatory and the desired remedy. The respondent will generally be the individual responsible for the action that is the subject of the complaint. In questionable cases, the Associate Vice President of Equity and Compliance/Title IX Coordinator will designate the respondent. Upon receipt of the complaint, the Associate Vice President of Equity and Compliance/Title IX Coordinator shall promptly notify the respondent and, when deemed necessary, the appropriate Dean, Director and/or other unit head and provide them a copy of the written complaint. Within 30 calendar days of receipt of a copy of the written complaint, the respondent should submit to the Associate Vice President of Equity and Compliance/Title IX Coordinator a written response to the complaint. If the respondent chooses not to submit a written response to the allegations, the investigator(s) will proceed with the investigation.

2. Investigation

Within 30 calendar days of receipt of the respondent's written response or 30 calendar days of the respondent's deadline if they choose to not submit a response, unless the complainant withdraws the complaint, the Associate Vice President of Equity and Compliance/Title IX Coordinator, or their designee, will begin a formal investigation. The investigator(s) will then:

- Inform complainant and respondent of their right to be interviewed and provide evidence;
- Obtain information and evidence, including the identity of any witnesses, from the complainant and the respondent;
- Attempt to obtain information from the identified witnesses;
- Ask questions deemed relevant by the investigator(s);
- Collect and maintain appropriate documentation of the investigation;
- Disclose appropriate information to others only on a need-to-know basis consistent with state and federal law;
- Keep the appropriate supervisors/administrators/faculty informed of the status of the complaint and investigation, and seek input from them as appropriate when implementing any resolution or discipline, as deemed necessary.
- Compile a written investigative report for use by Associate Vice President of Equity and Compliance/Title IX Coordinator in determining appropriate resolution and sanctions.
- A copy of the investigative report will be made available to both the complainant and the respondent and they will be given ten calendar days to provide any corrections and/or additions. Associate Vice President of Equity and Compliance/Title IX Coordinator will determine the relevance of any additions or corrections received.

### 3. Resolution and Sanctions

Within 30 calendar days of receipt of the investigative report and any subsequent relevant corrections or additions provided by the parties, the Associate Vice President of Equity and Compliance/Title IX Coordinator will make a determination or will advise the parties of the additional estimated amount of time needed for the investigation. In making this determination, the burden of proof that adequate cause exists for disciplinary action, up to and including termination, rests with the institution and shall be satisfied only by preponderance of the evidence standard in the record considered as a whole.

Once a determination has been made, the Associate Vice President of Equity and Compliance/Title IX Coordinator will notify the complainant and respondent, in writing, of the results of the investigation, and any associated remedies, discipline and/or sanctions. The written decision will be disclosed only to the complainant, respondent, and University officials as appropriate to determine and enforce any remedial actions, discipline or sanctions, and to prepare for any appeals. Complainants are encouraged to report any reoccurrences of conduct found to violate University policy, as well as to report any retaliation for the complaint or related investigation. Remedial and preventative measures may be imposed by the Associate Vice President of Equity and Compliance/Title IX Coordinator even in the absence of a violation of this policy if conduct is found to occur that may, if not addressed, rise to the level of a violation.

### 4. Appeals

All parties shall have the right to appeal the outcome of the formal process and decisions regarding students to the Vice President for Student Affairs (or his designee). All parties shall have the right to appeal the outcome of the formal process and decisions regarding employees to the Associate Vice President for Human Resources (or her designee) pursuant to this policy. The Vice President for Student Affairs or Associate Vice President for Human Resources must receive a written appeal within ten (10) calendar days after the receipt of the written notification of the decision being appealed. All materials that the party wishes to include in support of their appeal must be turned in at the same time as the notice of appeal to the Vice President for Student Affairs or Associate Vice President for Human Resources. In addition, the appeal must identify one or more of the following factors upon which the appeal is based:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or
- The Associate Vice President of Equity and Compliance/Title IX Coordinator, or assigned Investigator(s), had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

The Vice President for Student Affairs or Associate Vice President for Human Resources or his/her designee will notify the non-appealing party of the appeal and

provide that party ten (10) calendar days to respond in writing. The Vice President for Student Affairs or Associate Vice President for Human Resources or his/her designee may request additional information if he/she believes such information would aid in the appeal.

The Vice President for Student Affairs or Associate Vice President for Human Resources or his/her designee shall:

- Affirm the original finding and sanction;
- Affirm the original finding but issue a new sanction of greater or lesser severity;
- Remand the case back to the Associate Vice President of Equity and Compliance/Title IX Coordinator to correct a procedural or factual defect; or
- Reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand.

A decision by the Vice President for Student Affairs or Associate Vice President for Human Resources or his/her designee will be made within a reasonable time and the Associate Vice President of Equity and Compliance/Title IX Coordinator, the complainant, and the respondent will be notified in writing of the decision on the appeal. The decision of the Vice President for Student Affairs or Associate Vice President for Human Resources or his/her designee is final. If an appeal is not filed within the appeal period, the findings become final and are not subject to any review.

Mercer Community members may raise concerns and make reports without fear of retaliation.