WEST CHESTER UNIVERSITY

UNIVERSITY POLICY

Affirmative Action/Equal Opportunity Policy

Accommodations for individuals with disabilities in accessing these policies are available upon request by emailing accessiblepolicy@wcupa.edu

Purpose and Scope

West Chester University (WCU) is committed to providing leadership in extending equal opportunities to all individuals. Accordingly, the University will make every effort to provide these rights to all persons regardless of race, religion, sex, national origin, ancestry, age, sexual orientation, gender identity, disability, and veteran status. This policy applies to all members of the University community including students, faculty, staff, and administrators. It also applies to all applicants for admission or employment and participants in University-sponsored activities.

To achieve our educational mission, WCU is committed to creating pluralistic learning communities. As an equal opportunity employer, we comply with federal and state laws and regulations, while demonstrating our commitment to equal opportunity for all persons and not discriminating on the basis of race, color, sex, pregnancy, gender identity or expression, sexual orientation, age, national origin, disability, religion, veteran status, genetic information, or legally protected statuses in all aspects of employment.

Policy Statement

It is a violation of policy for any member of the University community to discriminate against any other member of the University community on the basis of race, color, sex, pregnancy, gender identity or expression, sexual orientation, age, national origin, disability, religion, veteran status, genetic information, or legally protected statuses, or to take retaliatory action against an individual for reporting discriminatory conduct, opposing discriminatory actions, or participating in the complaint process, whether as a party or witness. Acts of retaliation shall constitute misconduct subject to disciplinary action and should be reported to the Director of Equal Opportunity and Compliance (EQOC).

All management and supervisory personnel are directed to adhere to this policy and to take positive, aggressive steps to ensure equal opportunities. Specifically, this means that management and supervisory personnel guard against unlawful discrimination in any personnel action, including but not limited to recruitment, appointment, promotion, training, separation, or terms of employment. Furthermore, management and supervisory personnel must take affirmative action to improve our utilization of those persons underrepresented.

Policy Framework

All managers and supervisors have responsibility for actively initiating this policy, which will include input into the development, implementation, and monitoring of the University's Affirmative Action Plan and Equal Opportunity plans. Everyone at WCU is expected to help make affirmative action/equal opportunity a reality for all persons. The University will take all necessary steps to:

1. Recruit, hire, utilize, train, and promote for all job classifications without regard to race, religion, sex, national origin, ancestry, age, sexual orientation, gender identity, disability, veteran status, or other protected class status.
2. Recruit and admit students without regard to race, religion, sex, national origin, ancestry, age, sexual orientation, gender identity, disability, veteran status, or other protected class status.
3. Base decisions on selection, employment practices, employee utilization, job training, career mobility, promotion, program operations, and services provided so as to further the principles of equal opportunity/affirmative action.
4. Create and maintain a climate free from discrimination and harassment, including sexual harassment, of any individual.
5. Make every effort to increase the admission and employment opportunities for qualified persons with disabilities.
6. Assure that reasonable accommodation will be made for qualified individuals with disabilities.
7. Assure that in offering employment or promotion to persons with disabilities, no reduction in compensation, income, or other benefits would result because of disability status.

All members of the West Chester University community must work collectively to prevent discrimination or harassment by proactively engaging in training and educational opportunities to stay informed of University policies and protocols, as well as implementing initiatives to eliminate inequities and resolve issues that may occur. To this end, all employees serving on search committees must complete training with Human Resources and the Office of EQOC every two years. Supervisors should complete discrimination and harassment prevention training with the Office of EQOC every two years.

This policy is not intended to interfere with the protections afforded by law to freedom of speech. Additional information, including additional examples of what constitutes discrimination, is available from the Office of EQOC.

Responsibilities and Requirements

Overall responsibility for the implementation of the Affirmative Action/Equal Opportunity Policy has been assigned to the Office of EQOC. Any individual having suggestions, problems, complaints, or grievances regarding equal opportunity or affirmative action is encouraged to contact the office at 114 West Rosedale Ave. or by phone at 610-436-2433.

In the event that a member of the WCU community feels that they have been the subject of discrimination on the basis of race, religion, sex, national origin, ancestry, age, sexual orientation, gender identity, disability, or veteran status in violation of the University's Affirmative Action/Equal Opportunity Policy, the matter should be brought to the attention of the Office of EQOC. All procedures may be performed virtually.

Employees, whether Complainants (the person or persons injured by the action) or Respondents (the person or persons who allegedly performed the action), have the right to be assisted in all aspects of the complaint procedure by their union representative. If an employee elects to be represented by his or her union, the union representative will receive copies of all written notifications during the complaint process. Employees equally have the right not to be represented by their union. This decision rests solely with the employee. The employee should provide the office with their union representatives name, if applicable, to the Office of EQOC within 10 business days of receiving notification of an allegation. The role of the representative is limited to the advice and counsel of their principals only. Representatives cannot question, answer, or provide advice during an interview or hearing. However, parties can request a brief recess to consult their representative.

In recognition of the dignity and reputation of all, it is the intent of the University employees officially involved in the proceedings or investigation to preserve the confidentially of reports, complaints, and all proceedings. Disclosure of the report and complaint will be limited to individuals who, in the interest of fairness and problem resolution, have a need to know. The Complainant and Respondent are encouraged to maintain confidentiality consistent with the intent of the University.

Complaints can be filed up to 180 days after the alleged act or behavior. However, it is in the best interest of all to conduct a timely review of the circumstances of the alleged harassing behavior; accordingly, Complainants are urged to file complaints as soon as possible. The Complainant also has the option of pursuing formal complaints through the following public agencies responsible for enforcing the laws against discrimination and harassment within the time frames listed:

- PA Human Relations Commission: (215) 560-2496 (180 days)
- U.S. Dept. of Education, Office for Civil Rights: (215) 656-8541 (180 days)
- Equal Employment Opportunity Commission: (215) 440-2600 (300 days)

Procedures

Initiating the Process

The process begins when the Director of EQOC receives a report of a possible violation of WCU policy relating to discrimination of any type with sufficient factual information to permit the Director to make an initial assessment of violation. The Director will determine if any supportive measures should be applied. Following the initial assessment, the Director may take any of the following actions:

- If the Director determines that the report, even if substantiated, would not rise to the level of a policy violation; the nature and circumstances of the report do not make it appropriate for an investigation; or, after consultation with the Complainant about the Complainant's preferences regarding participation, the Director determines that there will be insufficient information to investigate the matter, the Director may dismiss the complaint. The Complainant will be advised of the dismissal and of any other recourse that might be appropriate.
- If the Director determines that the report is outside the scope of the discrimination policies and/or most appropriately handled by another office, the Director may refer the report to another office for review.
- If the Director determines that the report would, if substantiated, constitute a violation of policy, the Director will advise the Complainant of the types of processes available.
- If the Complainant chooses not to move forward, or if the Complainant is anonymous, the Director may notify the Respondent of the information reported and the possible repercussions if a formal complaint is brought forward. The Director may schedule a meeting with the Respondent (and their representative, if desired by the Respondent) to pass on this information, answer questions, and provide assistance. The Director may recommend voluntary training for an individual or a work unit. The reported information will be maintained by the Office of EQOC for a period of 7 years. However, no written record will be forwarded to a student's education file or to an employee's official personnel file.

The Complaint

To move forward with an informal or formal process, the allegations must be reduced to writing in a written complaint. The Complainant may provide this themselves or the Director of EQOC may assist the Complainant in writing the complaint. The Director may also bring a complaint themselves if circumstances warrant an investigation independent of participation by the Complainant.

Notification Procedure

If a Student is the Respondent, the Director of EQOC will notify them of the complaint and to arrange a meeting to inform them of the process. If a student organization is the Respondent, the procedures for notification outlined in the Student Code of Conduct will be followed.

If an Employee is the Respondent:

1. The Director of EQOC will send notification to the Provost's office (for faculty) or Division Head (for other staff).
2. The Provost or Division Head will send a notification letter to the Respondent that summarizes the complaint.
3. When a formal investigation is to be conducted against a faculty member, Article 42 of the APSCUF collective bargaining agreement will also govern.

If the Complainant is a student enrolled at the time in the class of the Respondent, they may request that notification and mediation be delayed until after the completion of the semester or until final grades in the class have been assigned. The Director of EQOC will make this determination.

Investigations may take place at any time in the resolution process after notification to the Respondent at the discretion of the Director of EQOC. The fact-finding procedure is not intended to interfere with any legal rights an employee or student has under the statutes and other laws of the Commonwealth of Pennsylvania or the government of the United States of America, or an employee's collective bargaining agreement.

Choice of Process by Complainant

There are two types of complaint-resolution mechanisms: a formal process that involves investigation and possible conduct proceedings, and an informal process that may or may not involve investigation and less formal procedures. The Complainant initiates the formal or informal process after filing the written complaint with the Office of EQOC.

Informal Process

The informal process includes efforts to mediate a resolution upon which both the Complainant and Respondent can agree.

Upon receipt of the complaint, notification to the Respondent of the allegations, the Complainant's desire for mediation, and the Respondents' concurrence to the informal process, the Director of EQOC may facilitate a resolution or appoint a mediator(s) and notify the parties of the mediator(s) identity. Mediation occurs by mutual consent, therefore, at any stage of the mediation process either party can withdraw from the informal process.

1. The mediation may be conducted by separate discussions with the parties or in meetings with both parties present, depending on the circumstances and the mediator's best judgment.
2. If either party chooses to withdraw from the mediation process, the Director of EQOC will move forward with the formal complaint process.
3. At the conclusion of the mediation, the mediator(s) will provide a written statement of the resolution agreed to by both parties to the Director of EQOC. The informal resolution process may recommend the following types of outcomes, where appropriate: facilitating an agreement between the parties, separating the parties, referring the parties to counseling programs, conducting targeted educational and training programs, and mediation.
4. If the parties involved in the informal resolution process fail to reach a mutually agreeable outcome for the alleged conduct, the allegation will be resolved via the formal investigation process.
5. The Director of EQOC will send a written summary of the outcome to the parties.
6. If the Director of EQOC determines that there is a need, the formal process may be initiated on behalf of the University at any time.
7. All written summaries of the informal complaint process will be maintained by the Office of EQOC for a period of 7 years. For employees, no written record will be forwarded to the employee's official personnel file and a successful informal resolution will not result in disciplinary proceedings. For students who are Respondents, the matter may be forwarded to the Office for Student Conduct.
8. Completed informal resolutions are binding and may not be appealed.

Formal Process

A Complainant may initiate formal procedures. Formal procedures, which may result in a disciplinary proceeding, include a fact-finding and review process.

After accepting a written formal complaint, the Director for EQOC will appoint an investigator. When appropriate, as determined by the Director, two investigators may be assigned to a case. The parties will be notified of the investigator's identity. Investigators are specifically trained and impartial faculty or staff. The investigator's role is to investigate complaints and make findings of fact pertaining to the complaint.

1. The investigation generally includes interviews with the parties, any relevant witnesses, and a review of relevant documents (text messages, emails, etc.). Participants in an investigation are advised that maintaining confidentiality is essential to protect the integrity of an investigation. At any time during the investigation, the investigator may recommend to the Director that interim measures be provided to the Complainant,

Respondent or witnesses. Violations of these interim measures may be considered a separate violation of policy.

2. During an investigative interview, the interviewee is expected to answer the question, not his or her representation.
3. Parties and union representatives are not allowed to record interviews.
4. The investigator(s) will take notes during the interview and provide each participant with a summary of the interview for the purpose of review. Any substantive changes to the content after the review by the participant may be noted in the final report.
5. The investigation shall be completed as promptly as possible, and in most cases within fifty (50) business days of the date of the formal complaint. A total of two attempts (by email, text, or phone) will be made to schedule investigative interviews. This includes attempts to schedule with the presence of a union representative or legal representative. Failure to respond to scheduling requests will result in proceeding with the investigation without input from that individual.
6. At the conclusion of the investigation, the investigator will prepare a written report that includes a statement of the allegations and issues, identification of facts, reviewed evidence, a determination of whether the alleged actions may have violated University policy using the preponderance of evidence standard, and any recommendations.
7. The investigator will submit the report to the Director of EQOC.
8. The Director will formulate an opinion as to whether there has been a violation of University policy.

If it the opinion of the Director of EQOC that there is not enough evidence to warrant a finding of discriminatory conduct, the Complainant and the Respondent will be notified of this decision and the case will be closed. The Office of EQOC, however, maintains the right to refer the case to other appropriate University officials if it appears that there may be violations of other University policies.

If it is the opinion of the Director of EQOC that there is reasonable cause to believe that the University's Affirmative Action/Equal Opportunity Policy has been violated, the Director will forward the investigative report and the Director's opinion to the appropriate manager (for employee Respondents) or to the Office of Student Conduct (for student Respondents), who will follow their disciplinary procedures. For confidentiality purposes, the Respondent is not entitled to a copy of the investigative report but will be advised of the findings.

For student Respondents, the procedures followed are outlined in the Student Code of Conduct.

The manager will utilize the existing University pre-disciplinary conference (PDC) procedures ensuring that the Respondent employee has the opportunity to be represented, if so desired, by their union representative during the PDC. At the PDC, the Respondent will have an opportunity to rebut the findings of the investigator's report and the Director's opinion. After completing the pre-disciplinary conference, the manager (in consultation with the Associate Vice President for

Human Resource Services and other University officials, as needed) will determine if discipline is appropriate and what level of discipline should be imposed. Possible disciplinary actions for violation of the University's Affirmative Action/Equal Opportunity Policy include oral or written reprimand, suspension, or termination of employment. The manager is not bound by the opinion of the Director and retains the right to make a final determination. Disciplined employees will have the right to appeal or grieve management's decision to the extent provided in the appropriate policy or collective bargaining agreement.

The Complainant will receive notification of the final disposition of the complaint. If the Complainant finds the resolution or disciplinary action unsatisfactory, they may pursue the complaint with the appropriate external agencies.

References

This policy is in compliance with federal and state laws, including Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendment of 1972, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act of 1990 (as amended).

The Office of EQOC is a resource for you if you have questions or concerns related to equal opportunity or compliance with federal, state, or local laws related to civil rights. This includes, but is not limited to, ADA accommodations, protected classes, and discrimination and harassment prevention and response.

For questions about this policy, individuals should contact the Vice President for the Division for Access, Compliance, and Engagement or the Office of Equal Opportunity and Compliance.

Reviewed by: Office of Equal Opportunity and Compliance
Policy Owner: Vice President – Division for Access, Compliance and Engagement (ACE)
Approved by:

Dr. Tracey Robinson, Vice President, Division for Access, Compliance and Engagement
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