

**Eastern
Kentucky
University
Policy and Regulation Library**

University Policy: 1.4.1POL

Responsible Office(s): Office of Institutional
Equity

Effective: August, 14, 2020

effective implementation of this Policy.

Background

This policy updates Policy 1.4.1.P, Policy on Discrimination and Harassment, in light of the requirements in the final Title IX regulations issued by the U.S. Department of Education on May 19, 2020, 85 Fed. Reg. 30026, as well as applicable case law. Violations of this Policy are subject to resolution using the process detailed herein and are not subject, unless otherwise noted below, to grievance and appeal procedures outlined in Policy 4.6.16, Dismissal of Faculty; Policy 8.3.1, Staff Grievances; Policy 4.7.4, Faculty Grievances; or Student Code of Conduct.

Procedures

I. **The Office of Institutional Equity and the Title IX Coordinator**

The Office of Institutional Equity (OIE) is responsible for addressing all allegations of discrimination, harassment and other conduct prohibited by this Policy. The Director of OIE is responsible for coordinating ECU's compliance with all federal, state, and local laws, as well as University Policies and Procedures, regarding discrimination and harassment other than discrimination and harassment on the basis of sex/gender. The OIE Director serves as the Coordinator for the University's efforts to comply with laws other than Title IX.

As part of OIE, the Title IX Coordinator's duties include overseeing the University's efforts to comply with Title IX, as well as other federal, state and local laws, as well as University Policies and Procedures, regarding discrimination or harassment on the basis of sex/gender, including its disciplinary Procedures, education and prevention efforts, and training. The Title IX Coordinator is responsible for coordinating the University's response to all Complaints involving possible sex discrimination as well as monitoring outcomes, assessing the campus climate, and addressing any patterns of systemic problems that arise during the review of such Complaints. The Title IX Coordinator is also responsible

The following acts are prohibited as Prohibited Conduct under this Policy and will be addressed by the University according to this Policy. Deliberately false and/or malicious accusations of harassment, discrimination, or retaliation are serious offenses and will be subject to appropriate disciplinary action.

- x Age Discrimination
- x Dating Violence
- x Discrimination
- x Domestic Violence
- x National Origin/Ethnicity Discrimination
- x Non-Consensual Sexual Contact
- x Pregnancy Discrimination
- x Race/Color Discrimination
- x Relationship Violence
- x Religious Discrimination
- x Remedies
- x Retaliation
- x Sex Discrimination
- x Sexual Assault
- x Sexual Exploitation
- x Sexual Harassment
- x Sexual Misconduct
- x Sexual Violence
- x Stalking
- x Veteran Discrimination

III. Supportive Measures

Upon receipt of a Report or Complaint under this Policy, the University will offer supportive measures, as appropriate and as reasonably available to the Complainant and/or to the Respondent. Supportive measures are non-disciplinary, non-punitive, individualized services that must be offered without fee or charge to the Complainant or the Respondent.

supportive measures. Upon receipt of a Report or Comp

Respondent and Complainant. A temporary suspension of a student Respondent may be enforced until the final disposition of the allegation has been made by the appropriate University official or hearing entity.

In the event that a Respondent employee is accused of a violation, which also constitutes grounds for immediate dismissal as defined pursuant to other employee policies, processes, and procedures, the Director of OIE may recommend that Human Resources place the employee on unpaid leave until such time as the matter is resolved. In the event that a Respondent employee is accused of a violation which does not constitute grounds for immediate dismissal under other employee policies, processes, and procedures, but the continued presence of the employee is disruptive to the work environment, the Director of OIE may recommend to Human Resources that the employee be placed on paid leave pending resolution of the matter. During temporary paid or unpaid leave, an employee may be denied access to the University's campus, facilities, or events. At the discretion of the Director of OIE, alternative work options may be pursued to ensure as minimal an impact as possible on the Respondent employee and Complainant or potential Complainant.

IV. Reporting

Any person may report a violation or alleged violation of this Policy (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute prohibited conduct), in person, by mail, by telephone, or by electronic mail or online portal, using the contact information listed for the OIE and/or Title IX Coordinator, or by any other means that results in the OIE and/or Title IX Coordinator receiving the person's verbal or written report. Such a Report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the OIE and/or Title IX Coordinator.

Where the University receives a Report or Complaint or otherwise has notice of a possible violation of this Policy, the University will take steps to understand what occurred and respond appropriately. With or without a Complaint, the University will provide supportive measures to the Complainant and the Respondent as appropriate.

Reports (including but not limited to Complaints) of violations of this Policy, including discrimination, harassment, and/or retaliation, should be promptly made to OIE, the Title IX Coordinator and/or any Mandatory Reporter. Any member of the University community may contact law enforcement, but no potential Complainant is required to do so.

Any individual may make an anonymous Report. Depending on the extent of information available about the incident or the individuals involved, however, the University's ability to respond to an anonymous Report may be limited. The Director of OIE and/or

considered criminal to local law enforcement, in addition to reporting to the University. Reports to OIE and criminal reports may be made simultaneously, however, the processes are separate (i.e., OIE is not required to relay reports it receives to law enforcement)

B. Reporting to the University

Individuals are encouraged to contact OIE and/or the Title IX Coordinator, either directly or through OIE's website, to make Reports of possible violations of this Policy. Information from these Reports will be shared as necessary with Investigators, witnesses, and the Respondent. Subject to the University's obligation to redress violations, every effort will

The potential Complainant has the right to request that OIE and/or the Title IX Coordinator not share their name (or other identifiable information) with the Respondent, or that OIE or the Title IX Coordinator take no action in response to a Report. OIE and/or the Title IX Coordinator, as appropriate, have the responsibility for evaluating confidentiality requests. If the potential Complainant makes such a request, OIE will balance the request with its dual obligation to provide a safe and non-discriminatory environment for all University community members, and to remain true to principles of due process and fundamental fairness that require the University to provide the Respondent with notice of the allegations and an opportunity to respond before action is taken against the Respondent. OIE will make this determination consistent with the following considerations: 1) the seriousness of the conduct; 2) the respective ages and roles of the Complainant and the Respondent; 3) whether there have been other Complaints against the Respondent; and 4) the right of the Respondent to receive notice and relevant information before disciplinary action is sought.

C. Conflicts of Interest or Bias

Both parties have a right to an investigation and resolution process free of conflicts of interest or bias by any University employee or official involved in the process, including the Title IX Coordinator, Investigator, member of the ECC, member of the ECAC, member of the Board of Regents, or any person designated by the University to facilitate an informal resolution process. The University employee or official involved in the process must not have and should disqualify themselves in a matter or proceeding in which the member's impartiality might reasonably be questioned, including but not limited to instances where:

1. The member has a personal bias or conflict of interest concerning a participant in the process, or has personal knowledge of disputed facts concerning the matter;
2. The member has a personal bias or prejudice against Complainants or Respondents generally;
3. The member was directly involved in the matter in controversy, or a subordinate whom the member previously supervised is involved in the matter, or the member was a witness to the matter;
4. The member or a person in their family is related to a participant in the process; or
5. The member is in the same Department or Work Unit as a participant in the process.

Failure of a University employee or official to disqualify themselves or notify OIE of potential conflicts of interest is considered a violation of this Policy.

A Complainant or potential Complainant and the Respondent have the

interest. The investigation or proceeding will be temporarily suspended and the Director of OIE or another appropriate official who is not the subject of the objection will evaluate whether the objection is substantiated. The parties will be notified in writing of the findings within five (5) Business Days. If the University employee or official is found to have a bias or conflict of interest against either party, the University employee or official will be removed from the matter and (when necessary) replaced. The investigation or proceeding will resume immediately upon a finding of no bias or conflicts, or upon the replacement of the University employee or official, whichever is first.

D. Sexual Predisposition and Prior Sexual Behavior of the Parties

The Complainant's or potential Complainant's sexual predisposition and prior sexual behavior are generally not relevant and will not be considered as evidence. However, either party's prior sexual behavior may be offered as evidence under the following limited circumstances:

- To provide that someone other than the Respondent committed the conduct alleged by the Complainant; or
- To prove consent by offering specific incidents of the Complainant's prior sexual behavior with respect to the Respondent. As noted, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.

E. Timeframe for Investigations

The University strives to complete all investigations, hearings, and appeals within reasonably prompt timeframes. The University's goals are to complete investigations and hearings within 60-90 Business Days, including completion of the appeals process within 30 Business Days after receipt of the appeal and, if applicable, completion of the informal resolution process within 30 Business Days. These processes may be temporarily delayed or extended for a limited time frame for good cause. Good cause may include considerations such as the absence of a party, a party's advisor or witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. OIE will provide written notice of any delays and/or extensions to 5(n no6d f)-3(ode w

who may be, but is not required to be an attorney.

- f. Notice to the parties of the University's student or employee code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the Procedures under this Policy.

For allegations of Title IX Sexual Harassment, the written notice must also include notice to the parties that they may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in a Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source.

The University will provide the Respondent with sufficient time to review the notice and prepare a response before any initial interview.

In the course of the investigation, the University will provide notice of any additional allegations to the parties if the University decides to investigate allegations about the Complainant or Respondent that are not otherwise provided in the initial written notice.

G. Informal Resolution

At any time prior to reaching a determination regarding responsibility, the University may offer and facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. Informal Resolution is a voluntary, structured interaction between or among the parties that is designed to reach an effective resolution to a Report or Complaint made under this Policy. The University recognizes that Informal Resolution options may, if implemented in concert with institutional values and legal obligations, be an appropriate means of addressing some forms of possible Prohibited Conduct reported under this Policy.

Informal Resolution is not appropriate for all forms of possible Prohibited Conduct under this Policy and OIE retains the discretion to determine which cases are appropriate for Informal Resolution. OIE will determine if Informal Resolution is appropriate based upon: 1) the willingness of the parties to participate in Informal Resolution; 2) the nature of the conduct at issue; and 3) the susceptibility of the conduct to Informal Resolution.

Participation in the Informal Resolution process is voluntary and the University will not require the parties to participate in an informal resolution process to resolve allegations of Prohibited Conduct under this Policy. Both a Complainant and a Respondent can request to end this type of resolution and puutilb.9(nf)(ntv-1(s)-1(t1(on an)-a)0.9(ut)-3(id)-5(an i)0.9(nf)-3(

process. The University will provide the parties with written notice disclosing: 1) the allegations; 2) the requirements of the Informal Resolution process, including the circumstances under which it precludes the parties from resuming an investigation arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the formal resolution process; and 3) any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared.

For allegations of Title IX Sexual Harassment, Informal Resolution, even if voluntary, will not be used unless and until a Complaint is filed with the appropriate University official and will not be used to address allegations that an employee sexually harassed a student. In addition, the University does not require as a condition of enrollment or continuing enrollment,

party, unless the University obtains that party's voluntary, written consent to do so for the Procedures under this Policy (if a party is not an "eligible student," as defined in 34 CFR 99.3, then the University must obtain the voluntary, written consent of a "parent," as defined in 34 CFR 99.3);

- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
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2. The proposed sanctions include suspension or expulsion of a student Respondent or termination of an employee Respondent from the University's programs and/or activities;
3. Either party submits a written request to OIE or the Title IX Coordinator for the Formal Resolution Process to challenge the preliminary findings(s) of responsibility and/or the proposed sanctions, discipline and/or remedies. The written request for the Formal Resolution Process must be submitted within three (3) Calendar Days of the date on which the Draft Final Report was provided. In the event that either party submits a written request for the Formal Resolution Process, OIE may recommend Informal Resolution, if appropriate based on the criteria set forth elsewhere in this Policy.

If Formal Resolution is not required as provided above or if the parties both submit a written waiver of their rights to have the Formal Resolution Process, OIE will inform both parties in writing simultaneously that the Draft Final Report, including the preliminary finding(s) and proposed sanctions, is final. This notice will be issued within ten (10) Business Days of the date on which the Draft Final Report was provided, and will also describe ECU's procedures and bases for the Complainant and the Respondent to appeal the Final Report.

J. Formal Resolution Process

1. Hearing Panel

Hearings for Title VII or Other Discrimination/Harassment Investigations

The Equity Complaint Council ("ECC") Hearing Panel is convened to make two separate decisions, both by majority vote. First, the ECC Hearing Panel will determine, by majority vote, whether the evidence and the witness testimony support a finding of "Responsible." Second, during the same hearing, the ECC Hearing Panel will determine, by majority vote, any applicable sanctions or discipline for violations of this Policy. The ECC Hearing Panel shall not re-investigate facts in a Complaint, and shall consider only the evidence presented and any facts that may be pertinent to the determination of responsibility and the sanctioning or discipline determination.

For Student Respondents, the ECC has been given the authority by the University's Board of Regents to impose a sanction for any violation by a student of this Policy, up to and including, suspension or expulsion. The ECC Hearing Panel shall consist of (1) faculty member, (1) staff member and (1) student member, as appropriate.

For Employee Respondents, all disciplinary recommendations will be made in accordance with Regulation 8.4.3, Progressive Disciplinary Action. The appropriate President/Vice President, in consultation with Human Resources, will review the recommendations and implement discipline. The ECC Hearing Panel shall consist of two (2) faculty members and (1) staff members or (2) staff members and (1) faculty member, as appropriate, to be selected from the pool at random.

Hearings for Title IX Investigations

For hearings stemming from allegations under Title IX, the hearing body shall consist of one person, the Title IX Hearing Officer. This person shall be an outside party contracted by the University to do the following: 1) conduct and act as the Title IX Hearing Officer during the course of the hearing, asking questions and determining the relevance of any and all questions posed by either party to any other party; 2) assess credibility of all parties and witnesses at the hearing; 3) at the end of the hearing, and in a reasonable timeframe, decide responsibility, if any, on the part of the Respondent for any alleged Policy violation, and, where violations of this Policy are determined to have occurred, consult appropriate administration to assign sanctions for the Respondent.

The Title IX Hearing Officer shall set forth, in writing, all factual findings related to the hearing, all decisions related to the hearing, and, where applicable, all sanctions. This information shall be provided to the parties as soon as the information is made available by the Title IX Coordinator or OIE staff.

2. Restricted Communications

ECC Hearing Panel members shall not initiate, permit, or consider communications made to the Hearing Panel outside the proceedings concerning a pending or impending hearing, except as follows: 1) Communications necessary to perform their responsibilities and duties; and/or 2) Communication for scheduling, administrative, or emergency purposes, which does not address substantive matters. If a Hearing Panel member receives an unauthorized communication bearing upon the substance of a Complaint, the member shall promptly notify the Complainant, Respondent, University representative, and OIE and/or Title IX Coordinator of the substance of the communication and provide the parties an opportunity to respond.

3. Hearing and Sanctioning and Disciplinary Procedures

A. Pre-Hearing Procedures

will not limit a Complainant or Respondent's choice of an Advisor or the Advisor's presence at any meeting or proceeding under this Policy; however, as described in this Policy, except in cases alleging Title IX Sexual Harassment, the advisor's role is limited to quietly conferring with the party, and the advisor may not address any other participant or the hearing panel.

- d. Both the Complainant and the Respondent may rebut unfavorable inferences.
 - e. Both the Complainant and the Respondent may provide an impact statement.
 - f. A record shall be made of the hearing and maintained in the OIE in compliance with the State University Model Records Retention Schedule.
- ii. ECC Hearings involving Non-Title IX Sexual Harassment

For ECC hearings regarding alleged violations of this Policy other than for Title IX Sexual Harassment, the following additional procedures apply:

- a.

- a. Advisor's Role: If a party does not have an Advisor present at the live hearing, the University will provide without fee or charge to that party, a list of ECU employees who serve as Advisors on a volunteer basis, and who may be, but are not required to be, an attorney, from which the party must choose. The chosen Advisor will conduct cross-examination on behalf of that party.
- b. Opportunity for Cross-Examination:
 - x Each party's advisor must be permitted to ask the other party and any witnesses all relevant questions and follow up questions, including those challenging credibility.
 - x Cross-examination must be conducted directly, orally, and in real time by the party's Advisor and never by a party personally, notwithstanding the discretion of the University to otherwise restrict the extent to which Advisors may participate in the proceedings.
 - x Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Title IX Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

x

- x The nature, severity of, and circumstances surrounding the violation;
- x An individual's disciplinary history;
- x Class standing (hours earned) where necessary to determine the impact of the sanction on the

to the Complainant; and

- vi. EKU's appeal procedures and the permissible bases for the Complainant and Respondent to appeal.

The determination regarding responsibility becomes final either on the date that University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

4. Appeals Procedures including Appeals for Tenured Faculty Respondent Subject to Termination Only)

The Respondent and the Complainant may appeal the University's closure or dismissal of a Complaint or allegations therein, as well as the Title IX Hearing Officer or ECC Hearing Panel's written determination of responsibility and/or sanctions or discipline. The University will implement the appeal procedures equally for both parties and will use the Preponderance of the Evidence Standard for its determination.

All appeals must be submitted in writing to the Director of OIE within five (5) Business Days of the receipt of the written decision rendered by the Title IX Hearing Officer or ECC Hearing Panel. The Appeal will then be forwarded to and considered by the University's Equity Complaint Appeals Council ("ECAC") for appeals involving sanctions other than suspension or expulsion; or, as required by Kentucky law, the Board of Regents for appeals involving sanctions of suspension or expulsion, except that a tenured faculty member has a right to appeal the discipline of termination to the Board of Regents pursuant KRS164.360 (see below).

Either party may appeal the ECC or Title IX Hearing Officer Determination of Responsibility and/or the sanctions or discipline imposed by the ECC or Hearing Officer. However, pursuant to KRS 164.360, in instances in which the Respondent is a tenured faculty member, the Complainant may appeal sanctions or discipline based on the claim that termination should have been imposed only in cases of Sexual Misconduct or Sexual Harassment.

When an appeal is filed by one party, the University will notify the other party in writing that an appeal has been filed. An appeal must be based on one or more of the following grounds:

1. **Procedural Error:** A procedural error occurred that affected the outcome of the investigation, including the findings and/or sanctions or discipline. A description of the error and its impact on the outcome of the case must be included in the written appeal.

2.

the discipline imposed only in cases of Sexual Misconduct or Sexual Harassment.

The following principles apply regarding the termination of tenured faculty members:

- x The Board of Regents will hear the discipline appeal as soon as is practicable, but no later than the next regularly scheduled Board meeting. The decision of the Board of Regents is final and may not be appealed.
- x Appeals based on new evidence will be remanded to the OIE Investigator who will then review the factual findings to determine if the new information changes the factual finding. If the Investigator determines that the factual finding has changed, the new factual finding will be sent to the appropriate hearing panel for sanctioning.
- x A faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given to him or her to make a defense before the Board of Regents by counsel or otherwise and to introduce testimony which shall be heard and determined by the Board of Regents (KRS 164.360). In cases involving Sexual Misconduct or Sexual Harassment only, the Complainant shall have the same rights as the tenured faculty Respondent.
- x All parties will be notified, simultaneously, of whether the disciplinary action appeal is accepted and the results of the disciplinary action appeal decision.

5. Student Withdrawal or Employee Resignation While Charges Pending

The University places a hold on the records of any student who has a Complaint pending that alleges the student violated this Policy. Should a student decide to voluntarily withdraw and/or not participate in the investigation and/or hearing, the process may proceed in the student's absence to completion. The hold will remain on the Respondents account even after withdrawal from the University, and the Respondent may not be permitted to register for classes and/or return to ECU without review by the Title IX coordinator.

Should an employee resign while an investigation is pending, the records of the Director of OIE and/or Title IX Coordinator will reflect that status. The investigation will be completed based on the information available. The

while an investigation was pending. The Director of OIE and/or the Title IX Coordinator will act promptly and appropriate action to address the effects of the prohibited conduct upon the victim and the community.

6. Failure to Complete Sanctions and/or Comply with Sanctions

All parties are expected to comply with sanctions within the time frame specified by the sanctioning body. Failure to follow or complete the sanctions by the date specified – whether by refusal, neglect, or any other reason – may result in additional sanctions or disciplinary action under University

decides not to provide a Complainant with supportive measures, then ECU will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.

VII. Training

- violations, that occurred ancillary to the incident;
- x To be free from retaliation for reporting violations of this Policy or cooperating with an investigation;
- x To file a reciprocal Complaint if Respondent feels that they have experienced sexual misconduct or discrimination;
- x To have Complaints heard in accordance with these Procedures;
- x To participate in any process regardless of whether the complaining individual serves as the Complainant or the University stands as the Complainant;
- x To be informed in writing of the outcome/resolution of the Complaint, sanctions where permissible, and the rationale for the outcome where permissible;
- x To refer a Complaint to law enforcement and receive assistance doing so; and
- x To have minimal interaction or contact with the Complainant.

Definitions

In addition to those terms defined above, the following terms also apply to this Policy:

- x **Actual Notice:** Notice of violations of this Policy or allegations of violations to this Policy to a University's Title IX Coordinator or any Mandatory Reporter. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the University with actual knowledge is the Respondent. "Notice" as used in this paragraph includes, but is not limited to, a Report to OIE and/or to the Title IX Coordinator.
- x **Advisor:** A party may choose to have another individual accompany them to meetings with the Investigator(s), or to a hearing. The advisor of choice may be, but is not required to be, an attorney. As described in this Policy, except in cases alleging Title IX Sexual Harassment, the advisor's role is limited to quietly conferring with the party, and the advisor may not address any other participant or the hearing panel.

In cases alleging Title IX Sexual Harassment, the parties may acquire their own third-party advisor, who may be, but is not required to be an o be -1(62qui-3(0.00-3(er)h0 Tw 81(

- x **Business Day:** A day during which University offices are open for regular business. The conclusion of a Business Day is considered the time of closure of University offices on a given day. Regular business

including, but not limited to, physical violence, sexual violence, psychological and/or emotional violence, and economic abuse. It may involve one act or an ongoing pattern of behavior and may take the form of threats, assault, property damage, violence, or threats of violence to one's self, a sexual or romantic partner, or to the family members or friends of the sexual or romantic partner.

- x **Discrimination:** Actions that deprive or limit access to education, employment,

consists of a pool of tenured faculty members, staff members, and student members. The student members shall not participate in hearing processes involving employees. The members of the ECC shall not include the Title IX Coordinator, the Investigator(s), or the members of the ECAC or Board of Regents. The members of the ECC shall receive training from the University and shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

- **Force:** Includes words, conduct, or appearance that causes an impairment in another.

- **Incapacitation:** A state where an individual lacks the physical and/or mental ability to make informed, rational judgments and decisions (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). Incapacity could result from mental disability, involuntary physical restraint, and/or from the consumption of alcohol or other incapacitating drugs. A person can be intoxicated without being incapacitated.

- x **Mandatory Reporter:** A University employee who has been designated as having the authority to institute corrective measures on behalf of the University. This includes:
 - x Deans
 - x Members of President’s Council
 - x Coaches and Coaching Staff
 - x Department Chairs
 - x Employees in the Office of University Counsel
 - x Employees in the Office of Human Resources
 - x Academic Advisors
 - x Supervisors, including anyone with a Coordinator, Director/ Assistant Director or Vice President title
 - x Residence Advisors, Graduate Residence Hall Coordinators & Residence Hall Coordinators

The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the University.

- **National Origin/Ethnicity Discrimination:** Discrimination against individuals because they are from a particular country or part of the world, because of their ethnicity or accent, or because they appear to be of a certain ethnic background. National origin discrimination can also involve treating people unfavorably because they are married to, or associated with, a person of a certain national origin. Discrimination can occur when the Complainant and the Respondent are of the same national origin.

- **Non-Consensual Sexual Contact:** Any physical contact, however slight, with another person of a sexual nature without that person's consent. Non-consensual sexual contact could include, but is not limited to, unwanted touching or forced touching of

includes Complaints.

- x **Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy
- **Retaliation:** Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secu

reasonable person would have been aware. Forcible fondling is defined as the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

- **Sexual Exploitation:** Action of taking non-consensual sexual 37.125 -1.155 f0.013 Tw 0 cl ib

another person's property. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical treatment of professional counseling. This definition incorporates the concept of cyber-stalking, which employs the use of the internet, social media,

but not limited to, the University's Model Laboratory

