

<b>System-wide Policy:</b>	
<b>HR0280 - Sexual Harassment &amp; Other Discriminatory Harassment</b>	
<b>Version: 1</b>	<b>Effective Date: 10/01/2017</b>

## HR0280 – Sexual Harassment & Other Discriminatory Harassment

### Topics:

[Procedures](#)

### Objective:

To state university policy prohibiting all employees from engaging in sexual harassment, other discriminatory harassment, and retaliation, and to inform members of the university community about how to complain about and to report potential violations of this policy.

### Policy:

#### 1. Introduction

The university is committed to an environment that recognizes the worth and dignity of every person while striving to foster tolerance, sensitivity, and mutual respect. The university therefore prohibits employees from engaging in acts of harassment on the basis of sex, which includes harassment based on gender, pregnancy, sexual orientation, and gender identity, as required by state or federal law. The university further prohibits discriminatory harassment based on race, color, religion, national origin, age, disability, genetic information, veteran status, and any other category protected by federal or state law. Employees are prohibited from engaging in sexual and other discriminatory harassment, regardless of whether such conduct is directed at another employee, a student, a vendor, or a visitor to campus.

Not every action or utterance that may be perceived as offensive will violate this policy. Nevertheless, some inappropriate conduct and actions based on sex or other protected characteristics and/or retaliatory acts may violate this policy even if not severe or pervasive enough to violate state or federal law. Whether the alleged conduct violates this policy may depend on the context and other relevant circumstances.

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Rude, inappropriate, or offensive behavior by employees that is not based on sex or other characteristics protected under state or federal law should be addressed by the appropriate supervisor or through appropriate administrative channels, and in accordance with any other applicable policies, including but not limited to, Human Resources Policies, [HR0580, Code of Conduct](#) and [HR0525, Disciplinary Action](#).

The university will not tolerate sexual harassment or other discriminatory harassment of employees or students by vendors or campus visitors. The manner in which the university will respond to a report of such harassment will depend on the circumstances involved, including the university’s ability to investigate and, if necessary, implement corrective action.

**2. Freedom of Speech and Academic Freedom**

This policy is not intended, and will not be used, to infringe on expression protected by the First Amendment, even though such expression may be offensive or unpleasant.

**3. Definitions of Sexual Harassment and Other Discriminatory Harassment**

**Sexual Harassment**

With respect to conduct directed at another employee, sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, which includes conduct based on gender, pregnancy, sexual orientation, and gender identity, regardless of whether those characteristics receive protected treatment under state or federal law, when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, abusive, or offensive working environment.

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With respect to conduct directed toward a student, sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's participation in an educational program; (2) submission to or rejection of such conduct by an individual is used as the basis for evaluation or advancement in an education program; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's educational performance or creates an intimidating, hostile, or offensive educational environment.

Sexual harassment is not limited to personal interactions, but can occur via telephone, texting, social media, the internet, and other methods of communication.

Examples of conduct that may constitute sexual harassment include, but are not limited to, the following:

- Comments (either oral or written, including electronic correspondence, social media, etc.) of a sexual nature (which normally will not include matters appropriate to discuss as part of university academic activity, such as courses, colloquia, seminars, lectures, etc.);
- Statements, questions, jokes, or stories of a sexual nature;
- Touching, hugging, patting a person's body;
- Disparaging remarks, gestures about sexual activity, experience, gender, or sexual orientation;
- Sexual propositions, invitations, solicitations, flirtations;
- Requests (either explicit or implicit) of a sexual nature as a term or condition of employment or academic status;
- Repeated requests for dates after refusal;
- Rape, attempted rape, or other sexual assault.

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### **Other Discriminatory Harassment**

With respect to conduct directed at an employee, other discriminatory harassment means unwelcome conduct based on race, color, religion, national origin, age, disability, genetic information, veteran status, and any other category protected by federal or state law that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, abusive, or offensive working environment.

With respect to conduct directed toward a student, other discriminatory harassment means unwelcome conduct based on race, color, religion, national origin, age, disability, genetic information, veteran status, and any other category protected by federal or state law that has the purpose or effect of unreasonably interfering with an individual's educational performance or creates an intimidating, hostile, or offensive educational environment.

Discriminatory harassment is not limited to personal interactions, but can occur via telephone, texting, social media, the internet, and other methods of communication.

Examples of conduct that may constitute discriminatory harassment include, but are not limited to, the following:

- Comments (either oral or written, including electronic correspondence, social media, etc.) based on race, color, religion, national origin, age, disability, veteran status;
- Racial or ethnic slurs, statements, questions, jokes, or stories;
- Disparaging remarks, gestures based on race, ethnicity, or religion;
- Offensive graffiti, cartoons, pictures based on race, ethnicity, or religion;
- Offensive remarks about a person's age.

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#### 4. Context of Conduct

When determining whether conduct constitutes sexual or other discriminatory harassment, the university will view the conduct objectively and will consider the totality of the circumstances, including the nature, context (particularly whether it occurred in an academic setting or in connection with pedagogical activity), severity, and frequency of the conduct. Depending on the severity of the conduct, a single incident may be considered sexual or other discriminatory harassment.

#### 5. Protection Against Retaliation

Retaliation is an act or attempted act taken because of a person's participating in a protected activity (e.g., making or supporting a complaint of sexual or other discriminatory harassment) that would discourage a reasonable person from engaging in protected activity. Protected activity includes a person's good faith (1) opposition to sexual or other discriminatory harassment; (2) report of sexual or other discriminatory harassment to the university or a state or federal agency; or (3) participation (or reasonable expectation of participation) in any manner in an investigation or related proceeding.

Retaliation is a violation of this policy regardless of whether the underlying violation of this policy is ultimately found to have merit. Retaliation should be reported in the same manner in which sexual and other discriminatory harassment is reported under this policy.

When the university receives notice of alleged retaliation, the university will take immediate and appropriate steps to investigate the alleged retaliation. The university will take strong responsive action if it determines that retaliation occurred, which may include disciplinary action, up to and including termination of employment. The university generally will investigate and resolve reports of retaliation in the same manner in which it handles reports of sexual and discriminatory harassment under this policy.

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## 6. Complaint and Reporting Procedures

The university encourages individuals who believe they have been subjected to an incident of sexual harassment, other discriminatory harassment, or retaliation to make a prompt complaint, either formally in writing or informally (i.e., verbally and not in writing).

Employees who learn of sexual harassment, other discriminatory harassment, or retaliation (by means of a complaint, report, personal observation, or otherwise) are either required or encouraged to report such conduct in accordance with the policies and procedures set forth below.

### Filing a Complaint/Reporting Sexual Harassment

Complaints of sexual harassment (including sexual assault, relationship violence, stalking, and retaliation related to such matters) should be made in accordance with the applicable campus Policy on Sexual Misconduct, Relationship Violence, and Stalking.

The applicable campus Policy on Sexual Misconduct, Relationship Violence, and Stalking establishes the reporting obligations of employees, including supervisors, who learn of sexual harassment.

- [University of Tennessee, Knoxville, University of Tennessee Space Institute, University of Tennessee Institute of Agriculture, Institute for Public Service, and System Administration](#)
- [University of Tennessee at Chattanooga](#)
- [University of Tennessee at Martin](#)
- [University of Tennessee Health Science Center](#)

### Filing a Complaint/Reporting Other Discriminatory Harassment

Complaints of other discriminatory harassment (including retaliation related to such matters) should be made in accordance with the applicable campus complaint procedure. Supervisors who learn of other discriminatory harassment (including

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retaliation related to such matters) are required to report it in accordance with the applicable campus complaint procedure. Other employees are encouraged to report it.

- [University of Tennessee, Knoxville, including University of Tennessee Institute of Agriculture, Institute for Public Service, and System Administration](#)
- [University of Tennessee at Chattanooga](#)
- [University of Tennessee at Martin](#)
- [University of Tennessee Health Science Center](#)
- [University of Tennessee Space Institute](#)

### **Complaints and Reports Involving High Level Administrators and Employees with a Conflict of Interest**

If a person wishes to make a complaint or report of sexual harassment, other discriminatory harassment, or retaliation against a high level administrator or someone who is reasonably believed to have a conflict of interest with receiving a particular complaint or report (such as a Title IX Coordinator or Office of Equity and Diversity employee), that complaint or report may be directed to the President, appropriate Chancellor, or Vice President for Human Resources, who will appoint an appropriate person to address the complaint or report.

### **Confidentiality**

The university will handle complaints and reports of sexual and other discriminatory harassment as confidentially as possible, but due to the need to conduct a thorough and effective investigation and to comply with federal and state civil rights laws, complete confidentiality cannot be guaranteed. In addition, the university may need to release certain documents in response to a public records request.

In the case of a sexual harassment complaint or report, if the complainant wishes to maintain confidentiality or requests that no investigation be conducted, or no disciplinary action be taken, the university will seriously weigh that request against the University's obligation to provide a non-discriminatory environment for all members of the university

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community, including the complainant, consistently with the applicable campus Policy on Sexual Misconduct, Relationship Violence, and Stalking.

## 7. Corrective and Disciplinary Action

The university will take action to prevent sexual harassment, other discriminatory harassment, and retaliation, and where appropriate, the university will take corrective or remedial action.

When it has been determined that an employee has violated this policy, the employee is subject to disciplinary action, up to and including, without limitation, termination, demotion, suspension without pay, and/or oral or written corrective action. A faculty member's violation of this policy may constitute "adequate cause" (Category B - Misconduct) for disciplinary action or termination pursuant to Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure. When the person found to have violated this policy is not an employee, the university's corrective action will vary based on the university's ability to implement corrective action.

This policy supplements, but does not replace, other University policies prohibiting discrimination and inappropriate conduct, including Human Resources Policies [HR0220 - Equal Employment Opportunity](#), [HR0580 - Code of Conduct](#), and [HR0525 - Disciplinary Action](#).

## 8. Training

Each campus or unit is responsible for training employees on preventing sexual harassment, other discriminatory harassment, and retaliation. Training should include an explanation of campus or unit policies and procedures for handling complaints of sexual harassment, other discriminatory harassment, and retaliation.



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**PROCEDURES:**

To view links to campus policies and procedures, click here:

<https://policy.tennessee.edu/campus-policies-procedures>