

### **3344-02-03 Policy Against Discrimination, Harassment, Sexual Violence and Retaliation**

#### **(A) Discrimination is Prohibited**

Respect for diversity is an essential element of the university community. The university strongly opposes and does not tolerate discrimination on the basis of race, sex (including sexual harassment, sexual violence, sexual assault, sexual exploitation, relationship violence, domestic abuse and stalking), pregnancy, religion, color, age, national origin, veteran and/or military status, genetic information, disability, sexual orientation, gender identity and/or expression, marital status or parental status., participation in protected activity (retaliation), and/or any other status protected by state or federal law, including Title IX of the Educational Amendments Act of 1972, rule or regulation.

negative or adverse treatment of an employee, student or other member of the university community based on any of the classifications listed above.

- (1) This policy applies to all students, employees, visitors and other individuals participating in a university activity, educational or employment opportunity or program. This policy covers conduct that occurs on university property, off-campus during a university activity, or off-campus outside of a university activity when the conduct has continuing adverse effects on or creates a hostile environment for students, employees, visitors or other individuals participating in a university activity.
- (2) It is the responsibility of every member of the university community to foster an environment free from discrimination, harassment, sexual violence and retaliation, and to take reasonable action to prevent or stop such conduct.
- (3) Information about ietion (3)

(B) Harassment is Prohibited

The university strives to provide an environment for students, faculty, staff and other members of the university community that is free from harassment on the bases of race, sex (including sexual harassment, sexual violence, sexual assault, sexual exploitation, relationship violence, domestic abuse and stalking), pregnancy, religion, color, age, national origin, veteran and/or military status, genetic information, disability, sexual orientation, gender identity and/or expression,



- (e) Touching that is inappropriate in the workplace or classroom and/or violates boundaries, such as patting, pinching, stroking or brushing up against the body of another person;  
personal space of another person; giving a massage around the neck or shoulders; attempted or actual kissing, grabbing or fondling;  
sexually manner where it can be observed by another person; exposing the underwear or body parts of another person, and; physical assault, coerced sexual relations, sexual assault or attempted assault.

(C) Sexual violence is prohibited.

Sexual violence is conduct of a sexual nature or conduct based on sex or gender that occurs without affirmative consent or when an individual is incapable of giving affirmative consent. Sexual violence is prohibited.

- (1) Acts of sexual violence are forms of sex- and gender-based discrimination and harassment.
- (2) Sexual violence includes sexual assault, sexual exploitation, relationship violence, domestic abuse and stalking.
  - (a) Sexual assault is sexual contact or sexual intercourse without affirmative consent.
  - (b) Sexual exploitation is purposely or knowingly doing any of the following:
    - (i) Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the  
  
give or withhold affirmative consent to sexual activity;

- (ii) Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means;
- (iii) Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing where that person would have a reasonable expectation of privacy);
- (iv) Recording or photographing private sexual activity consent;
- (v) Disseminating or posting images of private sexual affirmative consent;
- (vi) Prostituting another person; or
- (vii)

- (e) Stalking means a course of conduct directed at a specific individual that would cause a reasonable person, if aware of the conduct, under similar circumstances to fear for her, his

A course of conduct includes two or more acts, including but not limited to, those in which the alleged perpetrator directly, indirectly, or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about the person towards which such conduct is directed or interferes with that

(3) Definitions

- (a) Affirmative consent is: informed (knowing), voluntary (freely given) and active (not passive), meaning that, through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sexual activity. Affirmative consent to one form of sexual activity does not, by itself, constitute affirmative consent to another form of sexual activity. Silence, without more, is not affirmative consent. Affirmative consent may be withdrawn at any time by communicating, through clear words or actions, a decision to cease the sexual activity. Once affirmative consent is withdrawn, the sexual activity must cease immediately. Affirmative consent is absent where:
- (i) Force is applied to obtain consent. Force includes physical violence, abuse of power, threats, intimidation, and/or coercion.
- (ii) An individual knows or should know, based on the circumstances, that the individual seemingly giving consent is substantially impaired (e.g., by alcohol or drug use, unconsciousness or other reason). An individual who is substantially impaired cannot make a rational, reasonable assessment whether to give consent because she/he lacks the capacity to consent to sexual interaction.

- (iii) Coercion occurs when an individual is pressured, psychologically or emotionally manipulated, tricked, threatened, or forced

of rights is substantiated by an investigation or otherwise. Retaliation is a form of discrimination.

- (1) Retaliation is any overt or covert act of reprisal, interference, restraint, penalty, discrimination, intimidation or harassment, against any person or group for exercising any rights under this policy as described above.
  - (2) Prohibited retaliation includes retaliatory harassment and retaliation through a third person or persons.
- (E) Reporting discrimination, harassment, sexual violence and retaliation.
- (1) Information about incidents of discrimination, harassment, sexual violence and/or retaliation should be reported to the office for institutional equity.
    - (a) The director of the office for institutional equity is the . The associate director of the office for institutional equity is the deputy title ix coordinator.
    - (b) The office for institutional equity is located in the parker hannifin administration center (ac), room 236. The phone number for the office for institutional equity is 216-687-2223. The office for institutional equity may also be reached by email.
  - (2) All university employees, except confidential resources, who become aware of information that would lead a reasonable person to believe that discrimination, harassment, sexual violence or retaliation has occurred must promptly report all relevant details to the office for institutional equity. Student employees, including graduate assistants and teaching assistants, have a duty to timely report incidents of discrimination when they become aware of the information in the course of their duties.
  - (3) The university provides options for reporting discrimination, harassment, sexual violence and/or retaliation, including reporting to a university employee, a confidential resource (a confidential resource will not share information about discrimination, sexual



violence and/or retaliation with the office for institutional equity without the consent of the person providing the information except in cases of an emergency), reporting anonymously, and law

- (4) The university recognizes that a student who has been drinking alcohol or using recreational or other drugs at the time of a possible violation of this policy may be hesitant to make a report or participate in an investigation because of potential consequences arising from a violation of the student code of conduct. To encourage the reporting of possible violations of this policy and participation in an investigation, the University will not pursue sanctions against students for student code of conduct violations, such as underage possession or consumption of alcohol, drugs or narcotics, when the violation does not place the health and safety of another person at risk, when information about the violation is learned by the office of institutional equity as a result of a report and/or during the course of an investigation relating to this policy.

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