

HOWARD UNIVERSITY POLICY

Policy Number: Series 500: Human Resources
Policy Title: NON-DISCRIMINATION POLICY AND PROCEDURES
Responsible Officer: Chief Human Resources Officer
Responsible Office: Office of the Chief Human Resources Officer
Effective Date: May 5, 2021
Next Review Date: November 5, 2021

I. POLICY STATEMENT AND RATIONALE

Howard University, including Howard University Hospital (hereinafter referred to collectively as “the University”) is committed to ensuring compliance with Title VII of the Civil Rights Act of 1964, the District of Columbia Human Rights Act of 1977, and all other applicable federal, state and local laws, all as amended, that prohibit discrimination, harassment and retaliation in employment and/or at academic institutions. In furtherance of this commitment, the University strives to maintain an environment in which all members of the University community are: (a) judged and rewarded solely on the basis of ability, experience, effort, and performance; and (b) provided conditions for educational and employment pursuits that are free from all forms of unlawful discrimination, harassment, and retaliation.

The University will not tolerate discrimination or harassment against any person in employment matters, or in the provision of its education programs or activities, based on race, color, religion, sex, national origin, gender identity or expression, sexual orientation, disability, marital status, age (this Policy pertains to persons 18 years of age or older), matriculation, political affiliation, protected veteran status, genetic information, personal appearance, status as a direct or indirect victim of domestic violence, sexual offense, or stalking, or any other legally protected classifications, activities or conditions (referred to collectively as Protected Characteristics). Also, retaliation against any individual who files a complaint, participates in an investigation, or otherwise opposes discrimination is strictly prohibited under this Policy.

This Policy is designed to protect all University community members from unlawful discrimination, harassment, and retaliation. It provides individuals with an opportunity to seek remedy for conduct that may violate this Policy and allows the University to address such conduct and reaffirm its commitment to providing educational and employment opportunities free from the negative effects of discrimination.

The Policy is not designed to limit the academic freedom of University faculty. The University prides itself on affording faculty with a fair opportunity to teach, conduct research, and provide services to the community in a setting that allows the academic freedom necessary to cultivate a wide expanse of ideas and teaching methods. The University encourages the expression of such ideas and the use of such methods in a manner that is reasonably related to the subject matter of instruction, and provided that they are expressed or used in a manner that is consistent with and does not violate this Policy and the rights of students, faculty members, staff, and University community members.

The University's Office of Human Resources is primarily responsible for implementing this Policy with respect to employment matters and ensuring that all employees of the University are adequately trained or otherwise made aware of their responsibilities under the Policy.

Discrimination and harassment based on sex or gender, including sexual misconduct is governed by the *Howard University Policy Prohibiting Sex and Gender-Based Discrimination, Sexual Misconduct and Retaliation*, which is enforced by the University's Title IX Office.

While it is the responsibility of the University to disseminate these policies, it is the responsibility of each member of the University community to read, become familiar with, and abide by their provisions.

II. ENTITIES AFFECTED BY THIS POLICY

This Policy applies to members of the University community, including employees, faculty, students and certain third parties (e.g., visitors, volunteers, applicants for employment, vendors, and contractors). The actions proscribed by this Policy are also applicable to all individuals who are on University premises or on any other property where the University conducts its business (including at University-sponsored events).

III. DEFINITIONS

For purposes of this Policy, the following definitions apply:

- A. Complainant** - An individual who is alleged to have been subjected to discrimination, harassment, or retaliation in violation of this Policy.
- B. Discrimination** – Unequal or prejudicial treatment based on an individual's Protected Characteristic that interferes with or limits an individual's opportunity to participate in or benefit from a University program or activity, or that otherwise adversely affects a term or condition of the individual's employment or education. Discrimination may present itself in a variety of ways, to include, but not limited to, conduct based on a Protected Characteristic, such as:
 - blatant statements expressing bias against a certain group;
 - slurs;
 - adverse employment actions taken by managers or colleagues, including with respect to recruiting, hiring, promoting, transferring, training, disciplining, discharging, assigning work, measuring performance, or providing benefits;
 - adverse decisions made regarding an individual's ability to participate in a University education program and activity; and/or
 - conduct or speech that has the purpose or effect of creating a hostile work environment.

- C. Education Program or Activity** – Locations, events, or circumstances over which the University exercises substantial control, including any building owned or controlled by a student organization that is officially recognized by the University.
- D. Formal Complaint** – A document or electronic submission submitted by a complainant containing the complainant’s physical or digital signature.
- E. Harassment** – A form of discrimination (as defined in III.B. of this section) that encompasses unwelcome conduct based on a person’s Protected Characteristic(s). Harassment is severe or pervasive conduct that negatively affects the particular individual and also would negatively affect a reasonable person under the same circumstances. Harassment in violation of this Policy depends on the totality of the circumstances, including the nature, frequency, and duration of the conduct in question, the location and context in which it occurs, and the status of the individuals involved. Harassing behaviors may include, but are not limited to, the following, when based on a person’s Protected Characteristic:
- conduct, whether verbal, physical, written, graphic, or electronic that threatens, intimidates, offends, belittles, denigrates, or shows an aversion toward an individual or group;
 - epithets, slurs, or negative stereotyping, jokes, or nicknames;
 - written, printed, or graphic material that contains offensive, denigrating, or demeaning comments, or pictures; and
 - the display of offensive, denigrating, or demeaning objects, emails, text messages, or cell phone pictures.
- F. Matriculation** – The act of being enrolled in one of the University’s schools or colleges as a student.
- G. Personal Appearance** – The outward appearance of any person irrespective of gender with regard to hairstyle, beards, or manner of dress. This term does not relate, however, to the requirement of cleanliness, uniforms, or prescribed attire when uniformly applied for admittance to a public accommodation or a class of employees for a customary or reasonable business-related purpose.
- H. Religion** - Includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.
- I. Respondent** - An individual who has been reported to have engaged in conduct in violation of this Policy.
- J. Retaliation** - Prejudicial action that is taken against an individual for reporting discrimination or harassment, filing a complaint, participating in an investigation, or otherwise opposing discrimination or harassment.
- K. University Community** - All members of the Howard University community

including, but not limited to, students, faculty, staff, members of the Howard University Board of Trustees, third parties (e.g., visitors, volunteers, applicants for employment) and those who are conducting any type of business on any of the University premises (i.e., vendors and independent contractors) and individuals engaged and/or participating in educational or other activities hosted by, or affiliated with, the University.

- L. Witness** - An individual who may have information relevant to a report of discrimination. A witness may be an employee, faculty, student, or a third party.

IV. POLICY PROCEDURES

The complainant will not be retaliated against in any way for initiating an inquiry or complaint in good faith. Disciplinary action on the basis of allegations will not be taken against the respondent unless and until there is a final administrative finding of culpability or an admission of the violation by that person.

A. Reporting A Complaint

Any member of the University community alleging a violation of this Policy is encouraged to report it immediately to the Equal Employment Opportunity (EEO) Department in the Office of Human Resources (or the Title IX Office, if applicable, pursuant to that Office's procedures).

Every Howard University supervisor or department/unit head who receives or becomes aware of a complaint in violation of this Policy is required to inform the EEO Department. They are required to report all relevant details, including the name of the individual who made the complaint, the alleged complainant, the alleged respondent, any witnesses, and other known related facts.

In determining whether alleged conduct constitutes a violation of this Policy, the University will consider the report within context and the totality of the circumstances. All determinations will be based upon the facts and made on a case-by-case basis.

The University is committed to responding to all reported violations of this Policy promptly, equitably, and with sensitivity.

B. Interim Remedial Action

Promptly upon notification of a complaint, the Director, EEO and Employee Relations, ("the Director") or an authorized representative designated by the Director will discuss with the complainant the nature of the complaint and will determine whether interim remedial measures should be taken to alleviate problems or conflicts pending an investigation and resolution. Such measures may involve either the

complainant or the respondent, and may include a transfer, reassignment of duties or reporting requirements, administrative leave with pay, or other appropriate measures. Such measures, however, shall not be considered disciplinary action against any person and may only be taken with the concurrence of the Chief Human Resources Officer, after consultation with the Office of General Counsel.

C. Investigation and Findings

The Director will conduct or manage the investigations of complaints filed under this Policy. When the University receives a complaint or report alleging a violation of this Policy, the investigation will be assigned to the appropriate EEO investigator or, with the concurrence of the Office of General Counsel, to an experienced external investigator. If an external investigator is used to conduct an investigation they will be selected and retained by the Office of General Counsel.

Upon review of a complaint, the EEO investigator may request additional information from the complainant if it is unclear whether the complainant's allegations are in violation of the Policy. If the EEO investigator determines the allegations are not in violation of the Policy, the investigator will advise the complainant in writing of the findings and administratively close the matter.

If the complainant does not submit additional information, the investigator may cease processing the complaint and inform the complainant in writing the matter has been closed. The investigator will advise the complainant that he/she may resubmit the complaint with the requested information if he/she chooses to pursue the matter at a later time.

If the EEO Department accepts the complaint, the investigator will provide the complainant and the respondent with respective complaint notification memoranda, which include the following information: (1) the names of the complainant(s) (if deemed appropriate to include) and the respondent(s); (2) the alleged policy violation(s); (3) a description of the applicable policies and procedures; and (4) a reiteration of the University's prohibition against retaliation.

The investigator will interview the complainant, the respondent, and relevant witnesses and gather relevant information provided by the parties and identified witnesses. Interviews may be conducted in person, or in extenuating circumstances, by videoconference or telephone. Each party will be provided the opportunity to offer relevant witnesses and information, to include documents, communications, photographs, etc. The investigator will have the authority to determine the relevance of any evidence or witnesses. Statements of personal opinion or evidence of character is not relevant and will not be considered in the investigation process.

At the conclusion of all interviews and fact gathering, and when the evidence has been reviewed, the EEO investigator will make factual findings, and based upon those findings, come to conclusion as to whether there was a policy violation. The investigator will prepare a written report summarizing the relevant evidence and investigative steps. The investigation report will include the summary of allegations, description of procedural steps, evidence reviewed and witness statements, findings of fact, conclusion of application of facts to the Policy, and recommendation for corrective action, if applicable. The EEO investigator will submit the report to the Director for final review. This report is an internal confidential report and is not shared with the complainant, respondent, or any witnesses.

Once the investigation report is final, the Director will issue complaint closure memorandums to communicate the investigation findings to the complainant and respondent. However, the parties are not entitled access to the confidential investigation report, nor is the complainant entitled to know what, if any, disciplinary measures are taken against the respondent.

If the investigation concludes the respondent violated this Policy or another applicable University policy, the respondent's supervisor or department/unit head will, in consultation with the Office of Human Resources and Office of General Counsel, determine the appropriate corrective or disciplinary action. Disciplinary action, up to and including termination, may be taken against an individual who is found to have violated a covered policy. Corrective and disciplinary actions will be determined on a case-by-case basis. If the investigation reveals that the complainant or others also engaged in misconduct, such individuals may also be subject to disciplinary action. The complainant will be informed of the University's implementation of remedial measures only in the event the remedial action will involve the complainant or otherwise affect the terms and conditions of the complainant's employment.

D. Confidentiality

To the fullest extent practicable and consistent with the University's need to investigate and take corrective action, complaints of discrimination, harassment, or retaliation will be processed confidentially. In the event a complainant requests anonymity, the investigator will explain that the identity of a complainant may be disclosed, as well as all material circumstances of alleged misconduct, if the University determines that such action is necessary for the University's ability to respond to the allegations, resolve the complaint, and address the University's provisions against retaliation.

E. Retaliation

The University prohibits retaliation against an individual who, in good faith, reports a complaint under this Policy, participates in an investigation, or otherwise protests alleged discrimination, harassment, or retaliation.

F. False Statements

All parties and witnesses are prohibited from knowingly making false statements and from knowingly providing false information during the complaint and investigation process. Anyone who knowingly provides false information during an investigation may be subject to disciplinary action.

V. SANCTIONS

Failure to adhere to the requirements of this policy may result in disciplinary action, up to and including separation from the University.

VI. HYPERLINKS

www.howard.edu/policy

Howard University Employee Handbook

ATTACHMENT A

Howard University is committed to promptly and adequately addressing all reports of unlawful discrimination, harassment or retaliation occurring within the campus community, and therefore encourage individuals to notify the University of all such concerns.

The Office of Human Resources is located in the Howard University Service Center, Suite 407, 2244 10th Street NW, Washington, DC 20059. The office telephone number is 202-806-1280.

In addition to reporting a concern or filing a formal complaint pursuant to this policy, an individual has the right pursuant to applicable federal, state, and local law to file a complaint externally with:

U.S. Equal Employment Opportunity Commission
131 M Street, NE
Fourth Floor, Suite 4NWO2F
Washington, DC 20507-0100
1-800-669-4000
EEOC Public Portal: <https://publicportal.eeoc.gov>

U.S. Department of Health and Human Services
Office for Civil Rights
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201
Email: OCRComplaint@hhs.gov

U.S. Department of Education Office for Civil Rights
District of Columbia Office
400 Maryland Ave, S.W.
Washington, D.C. 20202-1475
Telephone: (202) 453-6020
Fax: (202) 453-6021
TDD: (877) 521-2172

District of Columbia Office of Human Rights
441 4th Street NW, Suite 570 North, Washington, DC 20001
Phone: (202) 727-4559
Fax: (202) 727-9589
TTY: 711
Email: ohr@dc.gov