

**PRESIDENTIAL DIRECTIVE  
THE UNIVERSITY OF WYOMING  
4-2016-1**

May 11, 2016

**SUBJECT: Investigative Process for Complaints of Harassment, Hostile Environment, and Retaliation (non-Protected Class)**

1. **General Information.** The University recognizes the right of individuals to engage in a Protected Activity free from harassment, hostility or without fear of retaliation. Any employee, who, in good faith, exercises the right to file a complaint of harassment, hostile environment or retaliation or cooperates in the investigation of such, is protected from adverse employment action motivated by the Protected Activity. Allegations of harassment, hostile environment and retaliation will be treated seriously, and retaliation will be treated as separate and distinct from the original complaint.
2. **Purpose.** To establish policies and procedures governing complaints of harassment, hostile environment, and retaliation by University employees and students who are not considered a Protected Class under UW Regulation.
3. **Definitions.**

**Complainant.** A person who is subjected to harassment, a hostile environment, or retaliation.

**Harassment.** Verbal or physical conduct that unreasonably interferes with an individual's work or academic performance or creates an intimidating or hostile work or educational environment.

**Hostile Environment.** Unwelcome conduct by an individual against another individual that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive. The determination of whether an environment is "hostile" must be based on all of the circumstances. These circumstances include, but are not limited to, the frequency of the conduct, its severity, and whether it is threatening or humiliating. Petty slights, annoyances, disagreements, and isolated incidents (unless extremely serious) will not rise to the level of illegality.

**Investigative Offices.** Investigative offices are specified in paragraph 4.b of this Directive.

**Preponderance of the Evidence.** The greater weight of the evidence (i.e., more likely than not).

**Protected Activity.** For purposes of this Directive, Protected Activity refers to participating in an activity pursuant to any UW regulation, rule, policy, or procedure.

**Protected Classes.** For purposes of this Directive, Protected Classes refers to race, gender, religion, color, national origin, disability, age, protected veteran status, sexual orientation, gender identity, genetic information, creed, ancestry, or political belief.

**Respondent.** A person whose alleged conduct is the subject of a complaint.

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**Retaliation.** To be considered retaliation, a causal connection is required between a materially adverse action by the University and the act of an individual (1) filing a complaint or reporting an allegation of harassment or hostile environment; (2) participating in support of an investigation of harassment or hostile environment regardless of whether the claim is substantiated; or (3) engaging in a Protected Activity. A determination of whether an action is materially adverse is made on a case by case basis.

4. **Authority to investigate.**

- a. **Protected Classes.** Allegations of discrimination, harassment, and retaliation that fall under UW Regulation 1-5 (Discrimination and Harassment) or UW Regulation 1-44 (Violence in the Workplace) will be investigated by the Equal Opportunity Report and Response Unit in the Office of Diversity and Employment Practices.
- b. **Non-Protected Classes.** The Office of Academic Affairs is the Investigative Office if the respondent is an employee appointed under UW Regulation 5-1, Academic Personnel. All other allegations of harassment, hostile environment or retaliation will be investigated by the Department of Human Resources.

5. **Investigative Process.**

- a. The Investigative Office shall determine the most appropriate means for addressing the report or complaint, including (1) investigating the report or complaint; or (2) determining that the facts of the complaint or report, even if true, would not constitute harassment, hostile environment, or retaliation, in which case no investigation is necessary.

The Investigative Office shall designate an individual to conduct or assist with the investigation. All investigators shall have training, qualifications and experience specified jointly by the Office of Academic Affairs and the Department of Human Resources. Anyone designated to address an allegation must adhere to the requirements of this Directive and confer with the Investigative Office throughout the investigation.

- b. All reports or complaints shall be made as promptly as possible after the occurrence. A delay in reporting may be reasonable under some circumstances; however, an unreasonable delay in reporting is an appropriate consideration in evaluating the merits of a complaint or report.
- c. If an investigation is conducted, the Complainant and Respondent shall have the right to:
  - i. Receive written notice of the report or complaint, including a statement of the allegations, as soon after the commencement of the investigation as is practicable and to the extent permitted by law;
  - ii. Present relevant information to the investigator(s); and

