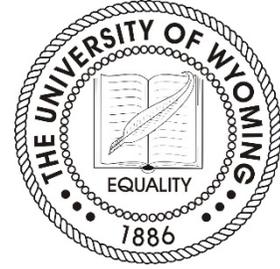

UNIVERSITY OF WYOMING REGULATIONS

Subject: Discrimination and Harassment

Number: UW Regulation 4-2



I. PURPOSE

To establish policies and procedures governing acts of discrimination and harassment based upon Protected Classes or related retaliation against or by a University of Wyoming employee or student.

II. DEFINITIONS

Appointing Authority: The individual with the authority or delegated authority to make ultimate personnel decisions concerning a particular employee.

Complainant: A person who is subjected to alleged Protected Class discrimination, harassment or related retaliation.

Dean of Students Office: The disciplinary authority for student respondents.

Disciplinary Authority: The individual who or office that has the authority or delegated authority to impose discipline upon a particular employee or student.

Discrimination: Occurs when an individual suffers an adverse consequence on the basis of the individual's Protected Class, including but not limited to failure to be hired or promoted or denial of admission to an academic program.

Equal Opportunity Report and Response Unit: Investigates allegations of discrimination, harassment and related retaliation based on an individual's Protected Class. This office does not have the authority to impose discipline.

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. This definition encompasses specific conduct and behaviors defined in UW Regulation 4-3 (Title IX and Sexual Misconduct).

Hostile Environment: Unwelcome conduct by an individual against another individual based upon the individual's Protected Class 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, and isolated incidents (unless extremely serious) will not rise to the level of illegality.

Investigating Officer: The Manager of Investigations or designee.

Protected Classes: For purposes of this Regulation, “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.

Retaliation: To be considered retaliation, a causal connection is required between a materially adverse action and the act of (1) reporting an allegation of discrimination or harassment; or (2) participating in support of an investigation of discrimination or harassment. A materially adverse action is one that would dissuade a reasonable person from reporting an allegation of discrimination or harassment, or participating in support of an investigation of an allegation of discrimination or harassment. A determination of whether an action is materially adverse is made on a case by case basis.

Supervisor: A supervisor is an individual who has the authority to hire, promote, discipline, evaluate, grade or direct faculty, staff or students. This includes individuals who manage or supervise others, including, but not limited to faculty, teaching assistants, resident assistants, coaches and individuals who lead, administer, advise or direct University programs. This also includes any University Officer as defined in UW Regulation 1-1 (Organization of the University).

III. POLICY

The University does not discriminate on the basis of race, gender, religion, color, national origin, disability, age, protected veteran status, sexual orientation, gender identity, genetic information, creed, ancestry, political belief, or any other applicable protected class or participation in any protected activity. The University will not tolerate acts of discrimination or harassment based upon Protected Classes or related retaliation against or by any employee or student. Individuals who violate this Regulation shall be subject to corrective action and/or discipline, up to and including termination or separation from the University.

IV. FALSE COMPLAINTS OR FALSE INFORMATION

It is a violation of this Regulation when an individual knowingly or recklessly alleges a false complaint of discrimination, harassment or related retaliation or provides false information during the course of an investigation.

V. REPORTING OBLIGATIONS

- A. **General obligation to report.** To take appropriate corrective action, the University must be aware of discrimination, harassment and related retaliation that occurs in University employment or educational programs and activities. Any individual who has experienced or witnessed discrimination, harassment or related retaliation should promptly report such behavior to the Equal Opportunity Report and Response Unit.
- B. **Supervisor and University Officer obligation to report.** Any supervisor or University Officer who witnesses or receives a written or verbal report or complaint of discrimination, harassment or related retaliation that occurs in University employment or educational programs and activities, **must** promptly report such behavior to the Equal Opportunity Report and Response Unit.
- C. **Obligation to report sexual misconduct.** Under Title IX of the Education Amendments Act of 1972, a school must process all complaints of sexual misconduct, regardless of where the conduct occurred, to determine whether the conduct occurred in the context of an education program or activity or had continuing effects on campus or in an off-campus education program or activity. Any employee who witnesses or receives a written or verbal report or complaint of sexual misconduct that is connected to University employment or educational programs and activities **must** promptly report such behavior to the Equal Opportunity Report and Response Unit. Sexual misconduct is defined in UW Regulation 4-3 as including dating violence, domestic violence, hostile environment sexual harassment, sexual assault, sexual exploitation, sexual harassment, stalking, and any other conduct of a sexual nature that is nonconsensual.
- D. **Confidential communications.** These reporting requirements do not obligate an individual or supervisor to report confidential communications if the individual or supervisor's profession and/or University responsibilities require the individual or supervisor to keep certain communications confidential (e.g., a professional counselor, medical professional, or STOP violence employee). For all other types of employees, the University is a public institution and cannot promise complete confidentiality.

VI. PROCEDURES

- A. **Investigative Process.** The University will address and resolve reports or complaints pursuant to this Regulation promptly and as is practicable after the complaint or report is made. The Equal Opportunity Report and Response unit, through the Office of General Counsel, is responsible for establishing standard investigative processes and procedures. These processes and procedures shall be approved and amended as determined by the General Counsel, and shall be made available on the University's website.

- B. Complaints involving a University Extension site or the University of Wyoming at Casper.** When an alleged violation involves a University Extension site or the University of Wyoming at Casper, the complaint shall be handled pursuant to this Regulation.

- C. Complaints by and against University employees and students arising at an affiliated entity.** University employees and students often times work or study at the worksite or program of another organization affiliated with the University. When a violation is alleged by or against University employees or students in those circumstances, the University may, in its discretion, choose to: (1) conduct its own investigation; (2) conduct a joint investigation with the affiliated entity; (3) defer to the finding of an investigation by the affiliated entity where the University has reviewed the investigative process and is satisfied that it was fairly conducted; or (4) use the investigation and findings of the affiliated entity as a basis for further investigation.

- D. No limitation on existing authority.** No provision of this Regulation shall be construed as a limitation on the authority of an appointing authority/disciplinary authority under applicable policies and procedures to initiate appropriate action. If an investigation is conducted under this Regulation and no violation is found, that finding does not prevent discipline of the respondent under other applicable regulations, policies and/or procedures.

- E. Dissemination.** The University shall broadly disseminate this Regulation.

Effective Date: July 1, 2018

Responsible Division/Unit: Equal Opportunity Report and Response, through the Office of General Counsel

Source: Titles VI and VII of the Civil Rights Act of 1964, as amended; related Executive Orders 11246 and 11375; Title IX of the Education Amendments Act of 1972; Sections 503 and 504 of the Rehabilitation Act of 1973; Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; the Age Discrimination in Employment Act of 1967, as amended; the Pregnancy Discrimination Act of 1978; the Americans with Disabilities Act of 1990; the Civil Rights Act of 1991; the ADA Amendments Act of 2008; and the Genetic Information Nondiscrimination Act of 2008.

Links: <http://www.uwyo.edu/regs-policies>

Associated Regulations, Policies, and Forms: UW Regulation 4-1 (Equal Education and Opportunity); UW Regulation 4-3 (Title IX and Sexual Misconduct); and Civil Rights Discrimination Investigative Guidelines.

History:

University Regulation 5, Revision 1; adopted 7/17/2008 Board of Trustees meeting

Revisions adopted 11/16/2012 Board of Trustees meeting

Revisions adopted 7/17/2014 Board of Trustees meeting

Revisions adopted 9/13/2017 Board of Trustees meeting (effective 7/1/2018: previously UW Regulation 1-5, now UW Regulation 4-2)