

ANTI-HARASSMENT POLICY

(Effective December 1, 2016)

Introductory Statement

While remaining fully committed to protecting the rights of academic freedom (as defined in this Handbook), Denison must also remain vigilant and aware of our obligation to provide a campus and work environment that is free of harassment and intimidation. Harassment is a form of discrimination which is prohibited under our non-discrimination policy. Denison University is therefore committed to maintaining a positive climate for study, work, and interaction, in which individuals are judged and treated on relevant factors relating to performance. Denison University community members are expected to cultivate and uphold an atmosphere that both respects individual perspectives and promotes the health of our shared community. All forms of harassment, which under this policy include, without limitation, sexual harassment and bullying, undermine Denison's mission and threaten the academic experience, careers, and well-being of students, faculty, staff and visitors to the campus. Therefore, all forms of harassment are prohibited.

In enforcing this policy, the University community must be committed to the need to protect academic freedom, for it is not the intent of this policy to create a chilling effect on academic inquiry or the expression of ideas. Especially in academic settings, such as classroom instruction, research, scholarship, publications, and situations with a discernible educational purpose, faculty and students have the right to discuss controversial subjects and to express ideas even though they may make others uncomfortable and even if members of the University community may strongly disagree with them.

Policy Prohibiting Harassment

It is the policy of Denison University, to be read in context with the important principles stated above regarding academic freedom, that all students, faculty, staff and visitors should be free from harassment in any form – physical, verbal, graphic, written, or otherwise – based upon an individual's race, color, gender, gender identity and/or expression, sexual orientation, family configuration, socioeconomic status, religion, ethnic or national origin, age, disability, military status, or any other status protected under federal, state, or local law. This policy extends to any conduct on University property or at a University sponsored event, or that in any manner affects a person's working, living, or learning environment at Denison. Although guided by the laws of the United States and the State of Ohio, the University's policy against harassment is not limited by these laws. As adopted across the Denison community, this policy is an expression of our academic, residential, and professional standards. Accordingly, conduct may be deemed to constitute harassment under this policy even if it is not based upon a legally protected status, such as race, age, or gender, and even if the offending actions are directed toward third parties.

The term "harassment" refers to unwelcome behavior that is offensive and sufficiently severe or pervasive that it interferes with, or limits the ability of, another individual to participate in or benefit from the services, activities, or privileges provided by the University, or creates an intimidating, hostile, or abusive working, living, or learning environment. In most cases, an isolated incident will not rise to the level of harassment. However, harassment in violation of this policy may result from a single incident if it is deemed sufficiently severe. The definition of harassment under this policy includes actions associated with the concept of bullying

– the persistent use of aggressive, overbearing, or unreasonable behavior - which may include tactics such as verbal, nonverbal, psychological, or physical abuse and/or humiliation.

All charges of harassment, including allegations of sexual harassment and bullying, will be taken seriously, and any person found to have engaged in harassment in violation of this policy will be subject to discipline, up to and including discharge. Further, the University reserves the right to investigate circumstances of potential harassment even in situations where no complaint has been filed.

Sexual Harassment is any unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature, on or off campus, where: (1) submission to such conduct is made explicitly or implicitly a condition of an individual's employment, academic standing, or participation in University programs or activities; (2) submission to or rejection of such conduct is used as the basis for employment decisions or for academic evaluation, grades, or advancement; or (3) such conduct has the purpose or effect of unreasonably interfering with a person's work or academic performance, education, or participation in University programs or activities, and is sufficiently severe or pervasive to create an intimidating, hostile, or abusive work or educational environment. Sexual Harassment includes harassment based on sex, gender, gender identity, gender expression or sexual orientation. Sexual harassment is a form of unlawful sex discrimination and is not tolerated by the University. In addition, consistent with the requirements of Title IX, the University maintains a policy, titled "Denison University Policy Prohibiting Sex Discrimination, Including Sexual Harassment, Sexual Misconduct, Stalking and Retaliation" which specifically applies to sexual harassment, assault, or other sexual misconduct, and which provides specific procedures relating to a sexual misconduct complaint brought against a student.

The University will not tolerate retaliation against any person who has reported harassment or conduct that might be deemed harassment under this policy, or who participates in resolving such a claim. Intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's informal or formal report or participation in a University or government agency investigation or proceedings related to practices prohibited by the Anti-Harassment Policy constitutes retaliation. Conduct will be deemed retaliatory if it would deter a reasonable person from reporting potential violations or participating in the resolution of these matters. The University also will not tolerate any knowingly false charges of harassment or reports submitted in bad faith.

Reporting

The University will promptly investigate any report of conduct that may violate the University's Anti-Harassment Policy (the "Policy"). The specific steps of the investigation and resolution process will vary depending on the nature of the allegations. Formal and informal resolution processes are described below. Note, however, that where the report alleges conduct that would be covered by the University's Title IX Policy, such as allegations of sexual misconduct that is violent in nature and/or involves non-consensual intercourse, sexual touching, stalking, or intimate partner violence, the provisions of the Title IX policy will govern. In enforcing this policy, the university remains committed to protecting academic freedom.

Any member of the college or university community who believes that he or she has been the victim of conduct or has witnessed conduct that violates the Anti-Harassment Policy (the Reporting Person) is encouraged to report the matter to a responsible University official: the Director or Associate Director of Human Resources, the Dean

of Students, a Department Chair, a Manager or Supervisor, or the Provost or an Associate Provost (collectively referred to as “University Representative”). The initial discussion between the Reporting Person and the University Representative will be confidential to the extent possible; however, once notified of the circumstances Denison may have an independent obligation to investigate the matter, in which case absolute confidentiality cannot be guaranteed. Even in such cases, the University shall endeavor to handle the matter as confidentially as possible under the circumstances. Any potential Title IX concerns must be reported to the Title IX coordinator, and any matter of a criminal nature must be reported to the police.

Resolution

A resolution can be informal or formal. The Vice President involved in a resolution is defined as the vice president of the division in which the responding person is employed. The Vice President of Student Development will be involved in the resolution in all cases where the reporting person is a student.

Process Advisement

In all harassment matters, the parties are entitled to select an advisor, who must be an employee of the college. The parties may select an advisor of their own, or, from a list of trained advisors maintained by the college. The role of the advisor is to provide guidance and support, as well as to provide information about Denison’s investigation and resolution processes as they relate to harassment cases. The advisor may be present at all meetings that the party he or she is advising attends throughout the investigation and resolution process, and can assist in preparing for any meeting or appeal. During any meeting, however, the advisor’s role is limited. Advisors are not permitted to engage in the process on the party’s behalf or participate directly in any meeting. Advisors may not ask questions or make statements on their advisee’s behalf. An advisor may quietly consult with their advisee during a meeting in a manner that does not disrupt the meeting. If an advisor fails to act in accordance with these procedures, the advisor will be asked to leave the meeting. Please be aware that delays in the process due to availability of a party’s advisor will not normally be permitted.

Informal Resolution

If the University determines that it is appropriate, and if both parties agree, the alleged violation of the Policy may be resolved through an informal process guided by the Office of Human Resources and Vice President. However, as noted above, allegations of misconduct that would be covered by the University’s Title IX Policy may only be resolved using the resolution procedure in the Title IX Policy.

Upon the initiation of the informal resolution process, the Director of Human Resources and/or the Vice President, or their designee(s), shall attempt to mediate the dispute through meetings with the parties. Although face-to-face mediation may be suggested, parties will never be required to deal directly with one another as part of the informal resolution process. Moreover, either party may terminate the informal resolution process at any time and proceed directly to the formal resolution procedure. The goal of the informal resolution process is to arrive at an outcome that stops any inappropriate behavior, prevents its recurrence, and addresses its effects. An informal resolution must be approved by the Reporting Person, the person accused of violating the Policy (hereinafter the “Responding Person”), and the University. An informal resolution may include University discipline, where appropriate. The Director of Human Resources, or his/her designee, shall prepare written documentation of any informal resolution.

Formal Resolution

For any matter where: (a) a staff member is the Responding Person; (b) conduct is alleged that is or could be covered by this Policy; and (c) the informal process is not able to effect a resolution, the formal resolution process described below shall apply.

Investigation

The University will request that the Reporting Person submit a written statement. Should the Reporting Person decline to submit such a statement, the University Representative who received the initial report shall prepare a written summary of the allegations. The written report shall be shared among the Vice President, Associate Provost for Diversity and Intercultural Education, Director of Human Resources, or any of their designees, as appropriate under the circumstances.

The Director of Human Resources shall then inquire of the Responding Person if the alleged event involves academic freedom. If the Responding Person alleges that the case involves academic freedom, a team of three investigators, the Director of Human Resources and two trained teaching faculty investigators (the investigative team), appointed in each individual case by the Provost, will be assigned to determine if it is more likely than not that academic freedom is involved. The investigative team will review the written statement or written summary and a written statement by the Responding Person explaining how academic freedom may be involved. If the investigative team determines that academic freedom is involved, then the team will investigate the alleged violation. If the investigative team concludes that the conduct was a legitimate exercise of academic freedom, their recommendation should be that the conduct does not constitute a violation of the anti-harassment policy. If the investigative team determines that academic freedom is not involved, then the Director of Human Resources, in consultation with the Vice President and Associate Provost for Diversity and Intercultural Education, or their designee(s), will conduct a prompt and thorough investigation. The Associate Provost for Diversity and Intercultural Education is responsible for maintaining a trained pool of faculty investigators.

During the investigation, whether by an investigative team or coordinated by the Director of Human Resources, both the Reporting Person and Responding Person may present statements, witnesses, and other evidence to the investigator(s), and may be required to do so. Failure to present requested information may impact the quality of the investigation. The Reporting Person, Responding Person, and witnesses with relevant information may also be interviewed as part of the investigation, which may be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The investigation is designed to provide a fair and reliable gathering of the facts.

At the conclusion of the investigation, the investigator(s) will prepare an investigative report setting forth the relevant facts gathered, analyzing relevant policy elements, and making a recommendation as to whether the alleged conduct occurred and constitutes a violation of the Policy. The investigator(s) should apply a preponderance of the evidence standard, that is, whether based on the available evidence it is more likely than not that a violation occurred. If the investigative report recommends that a violation occurred, the investigator(s) should provide an appropriate explanation of the basis for that recommendation.

Decision Process

Once the full investigative report is completed, the matter will be referred to the Vice President of the responding party. The Vice President will first review the investigative report and decide to either accept the record as complete or remand the matter back to the investigator(s)

for further information. Once the record is deemed complete, the Vice President will determine whether or not the evidence is sufficient to support a conclusion that the conduct occurred and if there was a violation of the Policy. If a determination is made that the conduct was a legitimate exercise of academic freedom, this will not constitute a violation of the anti-harassment policy. The Vice President will then report this determination in writing, in consultation with the Director of Human Resources. The Vice President will then make a report which may adopt the recommendation of the investigator(s), may reject the recommendation of the investigator(s), or may modify the recommendation in whatever manner is deemed appropriate. If a violation is found, the report should identify what discipline, if any, is being imposed, in consultation with the Director of Human Resources. Any employee determined to have violated the Policy is subject to appropriate discipline, up to and including termination.

Both the Reporting Person and the Responding Person shall be notified in writing when the investigation is complete and will be provided with those details of the results deemed appropriate to discuss with each party.

Although no specific time period for the investigation to be concluded and the decision rendered is mandated, it shall be understood that the process must be completed with all due pace so that any inappropriate conduct may be addressed promptly.

Appeal

The Responding Party may appeal the decision and/or sanction imposed to the University Appeals Board ("UAB"). For more information regarding the UAB, please refer to the Code of Student Conduct. The UAB is appointed by the President and has full and final authority in appeals under this Policy. The appeals panel will consist of not more than three members selected randomly from among the membership of the UAB. At least two members of the appeals panel must be staff members. The third member of the panel must be a member of the faculty or staff. No students can be involved in considering an appeal from a staff employee. A member of the UAB who is the appellant (i.e. the responding party), who is a member of the appellant's department, or who participated directly in the matter under appeal shall be disqualified from selection for the appeals panel. Appeals shall be submitted in writing to the Office of the Human Resources and should include a letter from the appealing party explaining the basis for the party's appeal.

The deadline for appeal shall be five (5) business days after receipt by the parties of the Vice President's written decision.

A party may appeal a decision on one or more of the following bases: 1) the investigation and/or decision was not in conformity with the procedures prescribed in this Policy, such that prejudice resulted (this would include an appeal for which the procedural violation was lack of sufficient consideration of academic freedom); 2) the discipline imposed was disproportionate relative to the violation of the Policy for which the Responding Person was found responsible; or 3) new information unknown to the appealing party at the time of the opportunity for final review of the investigative report has been discovered, which could be sufficient to alter the decision.

If the appeal letter does not provide information sufficient to identify at least one of the permissible bases for appeal, the UAB shall deny the appeal. If the UAB determines a proper basis has been stated, the UAB shall review the appeal only on the bases permitted by this Policy and identified in the appeal letter. Except as needed to explain the basis of new information, the review shall be limited to an examination of the written case record and any appropriate supporting documents that were

submitted by the appealing party. No testimony is given during a case review unless requested by the UAB.

In resolving any appeal, the UAB's authority is limited to (1) upholding a decision, or (2) remanding (i.e. sending back) the matter for further investigation/analysis. If the matter is remanded, the process will repeat, generally beginning at the appropriate stage of the investigation as indicated by the UAB's remand. Should a remanded matter subsequently be appealed again, the original UAB will retain jurisdiction over the appeal.

When the UAB has concluded its review, it shall notify the involved parties through the Office of Human Resources, concurrently and in writing, of the decision. If the UAB's decision is to uphold a decision, at that time the conduct matter will have been finally decided and shall not be subject to further review or appeal.

Notably, an appeal does not automatically suspend the imposition of any discipline.