ARMSTRONG STATE UNIVERSITY

Harassment Policy

Functional Area: Legal

Applies To: All Faculty and Staff

Policy Reference(s): Board of Regents policy located at http://www.usg.edu/hr/manual/prohibit_discrimination_harassment

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Responsible Person

University Counsel – Office of the President

Purpose / Rationale

It is the policy of this university that all faculty, staff and students have the opportunity to study and work in an atmosphere and environment free from any form of harassment or retaliation. Harassment or retaliation constitute discrimination under various state and federal laws and will not be tolerated by the university.

Definitions

N/A

Policy

Definition of Harassment

Harassment is defined as verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of race, color, religion, gender, sexual orientation, national origin, age or disability or that of their relatives, friends or associates, and that:

- Has the purpose or effect of creating an intimidating, hostile or offensive work or study environment; or
- Has the purpose or effect of unreasonably interfering with an individual's work or study performance; or
- Otherwise adversely affects an individual's employment or study opportunities.
Examples of harassing conduct include, but are not limited to the following:

- Epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to race, color, religion, gender, sexual orientation, national origin, age or disability; and
- Written or graphic material that does not serve an academic purpose that denigrates or shows hostility or aversion toward an individual or group because of race, color, religion, gender, sexual orientation, national origin, age or disability and that is placed on walls, bulletin boards or elsewhere on university premises or circulated in the workplace or the classroom.

Definition of Sexual Harassment
Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature when:

- submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment or status in a course, program or activity; submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual;
- such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from an educational program or activity.

Examples of sexual harassment may include, but are not limited to, the following:

- Physical assault which may carry criminal penalties as well.
- Direct or implied threats that submission to sexual advances will be a condition of employment, work status, compensation, promotion, grades, or letters of recommendation.
- Sexual advances, physical or implied, or direct propositions of a sexual nature. This activity may include inappropriate/unnecessary touching or rubbing against another, sexually-suggestive or degrading jokes or comments, remarks of a sexual nature about one's clothing and/or body, preferential treatment in exchange for sexual activity, and the inappropriate display of sexually-explicit pictures, text, printed materials, or objects that do not serve an academic purpose.
- A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliating another.
- Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history that do not serve a medical, employment or academic purpose.
Armstrong State University is committed to maintaining a fair and respectful environment for living, work and study. To that end, and in accordance with federal and state law and Board of Regents' policy, the university prohibits any member of the faculty, staff, student body, or visitors to campus, whether they be guests, patrons, independent contractors, or clients, from harassing any other member of the university community. Any form of harassment will be met with appropriate disciplinary action, up to and including dismissal from the university.

**Definition of Retaliation**
Retaliation is any adverse action taken against individual(s) for filing an action of discrimination, participating in an investigation, or opposing discriminatory practices. Retaliation is prohibited. Retaliatory action is illegal. Actions taken in retaliation for the filing, in good faith, of complaints of harassment are prohibited regardless of whether the claim of harassment is determined to be valid or unfounded. Reprisal in any form should be reported to a supervisor or university administrator. Retaliatory behavior will not be tolerated and is subject to disciplinary action by the university that can result in sanctions up to and including termination of employment.

Examples of retaliatory actions include, but are not limited to:

- assigning inappropriately low grades.
- giving deflated performance evaluations
- employment termination
- punitive scheduling
- withholding of deserved support for promotion and tenure
- assigning inadequate and undesirable space
- undeserved demotion
- punitive work assignments

**Amorous or Sexual Relationships**
Armstrong State University's educational mission is promoted by professionalism which is fostered by an atmosphere of mutual trust and respect. Trust and respect are diminished when those in positions of authority abuse that authority or place themselves in a situation of perceived or actual conflict of interest. A conflict of interest is created when an individual evaluates or supervises another individual with whom he or she has an amorous or sexual relationship. Such relationships, even when consensual, may be exploitative, and they imperil the integrity of the work or educational environment. They also may lead to charges of sexual harassment. Thus, the university discourages amorous or sexual relationships between supervisors/subordinates and between faculty/students.

Whenever a conflict of interest situation arises or is foreseen, the employee in a position of authority must resolve any potential conflict of interest by taking necessary steps which may include removing himself or herself from evaluative decisions concerning the other individual. If he or she is unable to personally resolve the conflict of interest, he or she is required to inform the immediate supervisor promptly and seek advice and counsel in dealing with the conflict. The employee, along with the supervisor, is responsible for taking steps to ensure unbiased supervision or evaluation of the employee
or student. Failure to resolve potential or actual conflict of interest situations, as described in this policy, may result in disciplinary action.

Faculty may have a significant role in academic personnel matters affecting their colleagues and students. Faculty who engage in amorous or sexual relationships with other faculty or students may place themselves in a conflict of interest situation. When this occurs, a faculty member must be sensitive to how the relationship may influence academic personnel decisions. Faculty must make every effort to resolve any situation involving a conflict of interest.

**Student-to-Student Harassment**
Any form of harassment between students, neither of whom is employed by the university, should be treated as a disciplinary matter and should be reported to the Office of Student Affairs.

**Responsibility of Students and Employees**
All students and employees should report any form of harassment that they experience, observe, hear about, or believe may be occurring. No student or employee should assume that an official of Armstrong State University knows about a specific situation.

**Academic Freedom**
Academic freedom shall be considered in investigating and reviewing complaints and reports of harassment. However, raising issues of academic freedom will not excuse behavior that constitutes a violation of the law or the university's harassment policy.

**Processing of Harassment Reports and Complaint Definitions**
Harassment Prevention Officer – Deidra Dennie
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deidra.dennie@armstrong.edu

The Harassment Prevention Officer is the individual or individuals designated by the President to be primarily responsible for investigating reports and complaints of harassment in accordance with the procedure. The Harassment Prevention Officer must be designated by name, telephone number, and location. The Harassment Prevention Officer is authorized to designate other individuals to assist with investigating harassment complaints and reports as deemed appropriate.

Decision-making Authority: The Decision-making Authority is the individual designated to review investigative reports, to make findings whether the harassment policy has been violated based upon the investigation, and to determine the appropriate action for the university to take based upon the findings. The Decision-making Authority will be the Vice President and Dean of the Faculty or his/her designee. If the respondent in a harassment complaint or report is the Vice President and Dean of the Faculty, the Decision-making Authority will be the President. If the Respondent in a harassment complaint or report is the President, the Decision-making Authority will be the Chancellor.
Reports and Complaints

- All reports and complaints of any form of harassment will be promptly investigated and appropriate action will be taken as expeditiously as reasonably possible. Complaints and reports of harassment should be reported as soon as possible after the incident(s) in order to be most effectively investigated. The university will make reasonable efforts to protect the rights of both the complainant and the respondent. The university will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses in a manner consistent with the university's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations required by law.
- The university encourages any person who feels he or she has been harassed to report the incident to the Harassment Prevention Officer. Any student, faculty member, or employee who knows of, receives information about or receives a complaint of harassment should report the information or complaint to the Harassment Prevention Officer. Administrators and supervisors must report incidents of harassment which are reported to them to the Harassment Prevention Officer in a timely manner.

Investigation and Resolution

- The university's complaint process, outlined herein, is the procedure to be used to end inappropriate behavior, investigate for the purpose of fact finding, and facilitate resolution of complaints involving allegations of harassment. However, as part of the complaint process, the Harassment Prevention Officer may recommend that the complainant and respondent attempt to resolve their differences through mediation. The university reserves the right to investigate and resolve a complaint or report of harassment regardless of whether the complainant pursues the complaint. In such cases, the respondent shall be informed of the status of the investigation at reasonable times up until the university's final disposition of the complaint, ensuring that the respondent is able to respond to the substance of the complaint during meetings convened by the Decision-making Authority to consider discipline based upon the substance of the investigative report.
- These procedures do not replace the right of complainants or respondents to pursue other options or remedies available under the law.

Informal Process
The following procedures for informal resolution are optional. The Harassment Prevention Officer shall determine whether and/or how to proceed. The goal of informal resolution is to stop inappropriate behavior, investigate, and facilitate resolutions, if possible. If a complainant is able and feels safe, he or she should clearly explain to the alleged offender that the behavior is objectionable and request that
it cease. The complainant should do so as soon as possible after the incident occurs.

The complainant may utilize the assistance of the Harassment Prevention Officer. Communication with the alleged offender may be in person, on the telephone, or in writing. If the behavior does not stop, or if the complainant believes some adverse employment or educational consequences may result from the discussion, he or she should go to the next higher level of supervision to document the complaint. The supervisor should report the complaint to the Harassment Prevention Officer. The Harassment Prevention Officer will work with the supervisor to facilitate a resolution of harassment complaints at the local level when deemed appropriate.

If an allegation of harassment is pursued through the university's informal procedure, the Harassment Prevention Officer must be contacted in order to initiate a complaint. The complaint should be brought as soon as possible after the most recent incident. The Harassment Prevention Officer will:

- determine whether the complaint is one which should be processed through another university dispute resolution procedure, such as mediation, available to the complainant; if appropriate, the Harassment Prevention Officer shall refer the complainant to that procedure(s) as soon as possible;
- inform the individual of the provisions of both the informal and formal discrimination/harassment complaint procedures and provide a copy of the complaint procedure;
- inform the person against whom the complaint is being brought of its existence;
- maintain appropriate documentation;
- disclose appropriate information to others only on a need-to-know basis consistent with state and federal law. An informal complaint may be investigated without identifying the complainant, if in the judgment of the Harassment Prevention Officer, this would increase the likelihood of satisfactory resolution of the complaint. While confidentiality cannot be guaranteed, care will be taken to keep investigation discussions sufficiently broad to protect the complainant's identity when requested. If the Harassment Prevention Officer finds there is evidence that the complained behavior occurred, he/she may use one or more of the following methods (which may also be part of the formal process) to stop the behavior;
- discussing the matter with the alleged offender, informing him or her of the policy and indicating that any inappropriate behavior must stop;
- suggesting counseling and/or sensitivity training;
- conducting training for the unit, division, or department, calling attention to the consequences of engaging in such behavior;
- requesting a letter of apology to the complainant;
- facilitating meetings between the parties and separating the parties, etc.
- composing a written letter of agreement confirming that respondent has been informed of the policy, identifying and accepting the Harassment Prevention Officer's resolution of the complaint, and stating that retaliation is prohibited. During the informal process, the Harassment Prevention Officer may keep the supervisor/administrator informed of the status of
the complaint and may seek input from the appropriate supervisor/administrator when implementing corrective action.

If the informal procedures do not resolve the complaint within a reasonable period of time to the satisfaction of the Harassment Prevention Officer, or the Harassment Prevention Officer feels that additional steps should be taken, he/she should commence the formal procedures unless reasonable delays are deemed appropriate.

**Formal Process**

If a complaint is not resolved through the informal complaint procedures or if the Harassment Prevention Officer determines that the complaint should be pursued through formal complaint procedures, the formal procedures must be used. The Harassment Prevention Officer or his/her designee will:

- secure a formal complaint in writing. The complaint must include a detailed description of the allegations upon which the charge is based, a list of possible witnesses, as deemed appropriate by the Harassment Prevention Officer, and the resolution sought.
- notify the respondent in writing of the nature of the allegations and include a copy of the harassment policy and process. The respondent may provide a written response to the allegations.
- conduct an investigation of the complaint, including appropriate interviews and meetings. The Harassment Prevention Officer may convene a committee to assist in conducting the investigation, as needed. Although attorneys are prohibited from participating in interviews and meetings between the Harassment Prevention Officer and the complainant or other witnesses, they may accompany and provide confidential advice to their client.
- prepare a report to the Decision-making Authority.
- the report may be provided to the complainant and/or respondent, as deemed appropriate, in keeping with state and federal law. After receiving the report of the Harassment Prevention Officer, the Decision-making Authority may, at his/her discretion, meet with either party; request additional information which may include written arguments from the complainant/respondent relating to the allegations of the complaint; or take other measures deemed necessary to reach a decision. The Decision-making Authority will report in writing to the parties and the Harassment Prevention Officer, his or her findings as to whether or not the harassment policy has been violated. The Decision-making Authority will take into account the surrounding circumstances; the nature of the behavior; the relationship(s) between the parties; the context in which the alleged incident(s) occurred; and other relevant facts upon which he/she relied in reaching a decision. If the Decision-making Authority makes the judgment that a violation of policy has occurred he or she will determine the nature and scope of sanctions and when/how to implement sanctions.

**Investigative Data**

During the investigation, the Harassment Prevention Officer will keep confidential to the extent
permitted by state and federal law the information gathered during the investigation. The Harassment Prevention Officer shall exercise due care in sharing identifiable information about students, staff or faculty at all times.

**Summary Action**
The President or designee may impose a summary suspension prior to the resolution of informal or formal proceedings. However, a summary suspension may be imposed only when, in the judgment of the President, the accused individual's presence on campus would constitute a threat to the safety and well-being of members of the campus community. Before implementing the summary suspension, the accused individual shall be given written notice of the intention to impose the summary suspension and shall be given an opportunity to present oral and written arguments against the imposition of the suspension. If the accused individual is summarily suspended, the formal process should be completed within the shortest reasonable time possible, not to exceed ten (10) working days. During the summary suspension, the accused individual may not enter the campus without obtaining prior permission from the Harassment Prevention Officer.

**University Action**
The university will take the appropriate remedial action, based on results of the investigation, and will follow up as appropriate to ensure that the remedial action is effective. Complainants are encouraged to report any reocurrences of conduct which were found to violate the harassment policy. The Decision-making Authority will notify the complainant and respondent, in writing, of the results of the formal investigation. Written notice to parties relating to discipline, resolutions, and/or final dispositions is deemed to be official correspondence from the university.

**Right to Appeal**
Pursuant to this policy, the complainant and the respondent shall have the right to appeal the decision of the Decision-making Authority to the President or his or her designee. In exercising the right of appeal to the President as provided by this procedure, a written appeal must be made within ten (10) working days after written notification of the decision which is being appealed. The President or his or her designee may receive additional information if he or she believes such information would aid in the decision. A decision will be made within a reasonable time and the Harassment Prevention Officer, the complainant, and the respondent will be notified of the decision. During the time of the appeal and review, disciplinary action taken as a result of the original complaint, may be implemented and enforced.

**Education and Training**
The university will provide a full range of education and training programs to promote awareness and prevention of harassment. Education and training programs also should include education about the university's harassment policy, as well as training for responsible personnel in conducting investigations, management and implementation of the complaint procedure.

**Dissemination of Policy and Procedure**
Information regarding this policy will be provided during student orientation, during employee orientation, and to all individuals who volunteer in various positions on campus. Copies of the policy will be readily available in all departments and units of the university. In addition, the policy will be posted on the university's website.
**Record Retention**
During an investigation of a complaint and, upon the completion of an investigation, the custodian of the file shall be the Harassment Prevention Officer. Future access to any file shall be provided in keeping with the Georgia Open Records Act and the Family Educational Rights and Privacy Act.

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**Related Procedures**

*N/A*