



Ohio Administrative Code Rule 3339-3-06 Prohibiting harassment and discrimination.

Effective: October 1, 2019

(A) Harassment and discrimination are prohibited

Respect for human diversity is an essential element of the Miami university community. Members of the Miami university community have the right to an environment free of conduct that unreasonably interferes, hinders, or otherwise denies another a suitable working, living, or learning environment. Therefore, members of the university community should refrain from harassing others or creating an environment that denies others a suitable working, living, or educational environment. Miami university strongly opposes and will not tolerate harassment or discrimination on the basis of age, color, disability, gender identity, or expression, genetic information, military status, national origin (ancestry), pregnancy, race, religion, sex/gender, status as a parent or foster parent, sexual orientation or protected veteran status in its activities, programs, admission, and employment. This prohibition extends to harassment or discrimination, based on the protected status listed in this paragraph, including the creation of an intimidating, hostile, or offensive working, educational, or living environment. This rule is intended to address all forms of prohibited harassment and discrimination except for allegations of sexual harassment, sexual misconduct, interpersonal violence (stalking, dating violence and domestic violence) which are addressed separately in the Title IX protocol -sexual misconduct policy and procedures for students and Title IX protocol - sexual misconduct policy and procedures for employees at Miami university.

Harassment and discrimination are illegal. This rule is not intended to impair or limit the right of anyone to seek a remedy available under state or federal law. Legal remedies may be pursued outside Miami university by contacting the equal employment opportunity commission, the Ohio civil rights commission, the United States department of education office for civil rights, or by consulting an attorney at the persons own expense. Under the law, there are various time limits for filing charges outside the university. Persons should contact the agencies listed in this paragraph or an attorney to determine the applicable time limits.

This rule may in some respects exceed the requirements of applicable law. However, this rule will



not be enforced so as to infringe upon first amendment rights, including the right to academic freedom.

(B) Definitions

For the purpose of determining whether particular conduct constitutes a violation of this rule, the following definitions will be used:

(1) Discrimination: conduct that is based on a persons age, color, disability, gender identity or expression, genetic information, military status, national origin (ancestry), pregnancy, race, religion, sex/gender, status as a parent or foster parent, sexual orientation or protected veteran status in its activities, programs, admission, and employment that:

(a) Adversely affects a term or condition of a persons employment, education, living environment or participation in a university activity; or

(b) Is used as a basis for or a motivating factor in decisions affecting the persons employment, education, living environment or participation in a university activity.

(c) Examples of conduct prohibited by this policy include but are no means limited to taking any of the actions listed in this paragraph based on a person's age, color, disability, gender identity or expression, genetic information, military status, national origin (ancestry), pregnancy, race, religion, sex/gender, status as a parent or foster parent, sexual orientation or protected veteran status (protected class status):

(i) Denying a person access to an educational program;

(ii) Denying salary increases and/or promotions;

(iii) Preventing a person from participating in any activity or program or using university facilities or services; or

(iv) Using protected class status as a motivating factor in making a decision about employment or



educational opportunities.

(2) Harassment: Harassment is unwelcome conduct that is based on a person's protected class status: age, color, disability, gender identity or expression, genetic information, military status, national origin (ancestry), pregnancy, race, religious, sex/gender, status as a parent or foster parent, sexual orientation or protected veteran status.

Harassing conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.

Harassment becomes a violation of this rule when:

- (a) Enduring the offensive conduct becomes a condition of continued employment; or
- (b) The conduct is sufficiently severe or pervasive enough to create a work environment that a reasonable person would consider it intimidating, hostile, or abusive. For conduct to constitute harassment it must be more than offensive; it must be so severe or pervasive that it effectively denies the victim access to the university's programs or activities or unreasonably interferes with the victim's working, educational or living environment.

(C) Coverage

This rule applies to all aspects of Miami University's operations, programs and activities, including regional campuses. It applies to all university students and employees, including faculty, unclassified staff, classified non-bargaining staff, bargaining unit staff, and student employees. It also applies to all vendors, contractors, subcontractors, and others who do business with the university. It applies to all visitors or guests on campus to the extent that there is an allegation of harassment or discrimination made by them against university students or employees. This rule also applies to harassment or discrimination that occurs outside the educational program or workplace if the conduct negatively affects a person's educational or work environment.

(D) Information and assistance



General information regarding this rule is available at the office of equity and equal opportunity, Hanna house, Miami university, Oxford, Ohio 45056, (513) 529-7157.

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act coordinator- Section 504 and the ADA are federal laws prohibiting discrimination on the basis of disability. The university's Section 504 and ADA coordinator is Ms. Kenya Ash, director of the office of equity and equal opportunity, Hanna house, Miami university, Oxford, Ohio 45056. Ms. Ash may be reached at (513) 529-7157 or ashkd@MiamiOH.edu.

(E) Retaliation is prohibited

Any retaliatory action or conduct taken by any person against a person who has sought relief under this rule is strictly prohibited and will be regarded as a separate and distinct violation of this rule. Examples of retaliatory action include assigning low grades, assigning undesirable teaching or work schedules, and/or giving deflated performance evaluations. This protection against retaliation extends to any person who opposes acts of harassment or discrimination or who testifies, assists, or participates in any manner in an investigation, proceeding, or hearing relative to harassment or discrimination.

(F) Action

If the university determines that reasonable cause exists to believe that a violation of this rule has occurred, the university will take action to provide appropriate additional relief. This rule provides for reliable and impartial investigation of harassment or discrimination. When harassment or discrimination does occur, the university will take appropriate steps to prevent its recurrence and remedy the discriminatory effect on the complainant (or alleged victim if different from the complainant) and others, as appropriate. The university may also initiate appropriate disciplinary action under paragraph (L) of this rule.

(G) Reporting harassment, discrimination, or retaliation- duty to report

Any person who believes he/she has been subjected to discrimination, harassment, or retaliation



may report the behavior directly to the office of equity and equal opportunity (office of equity and equal opportunity).

All employees who become aware of alleged protected class discrimination or harassment as defined in this rule are required to report it to the office of equity and equal opportunity. This includes administrators, supervisors, managers, faculty and staff.

Graduate assistants, resident assistants (RAs), orientation leaders (souls) and student managers in campus services are also required to report.

Exemptions:

(1) Employees with a legal privilege of confidentiality under Ohio law (including doctors, licensed counselors, and their staffs) are not required to report when the information is obtained in the course of a confidential communication.

(2) Researchers are not required to report if the information is disclosed by a subject during participation in an institutional review board approved human subjects research protocol (IRB research). The university's institutional review board (IRB) may, in appropriate cases, require researchers to provide such information to all student subjects of IRB research.

In addition to reporting discrimination and harassment, information regarding alleged retaliation as described in paragraph (F) of this rule must also be reported.

office of equity and equal opportunity will conduct a preliminary assessment of the report. The report should not be made to the person who is alleged to be engaging in discrimination, harassment, or retaliation.

Anonymous reports will be accepted; however, the university's options for investigating or resolving anonymous reports may be limited because of the unique challenges presented. However, office of equity and equal opportunity reviews and takes appropriate action on all reports including anonymous reports.



(H) Advisors

Any person who reports alleged harassment, discrimination, or retaliation) and any person against whom such an allegation is made may be accompanied at all stages of the process described in this rule by an advisor. Advisor means any individual who provides support, guidance, or advice to the accuser or the respondent. The role of the advisor is only to be present; the advisor will not be provided documentation or permitted to interject during any part of a meeting. If an advisor is determined to be unreasonably interfering with the investigation, he or she may be asked to leave.

(I) Making a report of harassment, discrimination, or retaliation

A report may be filed at any time regardless of the length of time between the alleged occurrence and the decision to report. However, the university strongly encourages persons to report promptly in order to facilitate an effective investigation and access to information. A delay in reporting may compromise the investigation.

(J) Investigation of a report

Office of equity and equal opportunity may facilitate an informal resolution of the report. An informal resolution of the report does not bar a subsequent formal resolution. The university does not use mediation to resolve reports.

Within thirty calendar days of receipt of a report, office of equity and equal opportunity will conduct an investigation to determine whether there is reasonable cause to believe that a violation of this rule has occurred, including the extent and severity of the violation. The parties will have the opportunity to be accompanied by an advisor, to present information and respond to written reports, and to ask that witnesses be interviewed. At the completion of the investigation, office of equity and equal opportunity will issue a written report of its investigation that includes a finding of reasonable cause or no reasonable cause and related recommendations. office of equity and equal opportunity's findings will be based on a preponderance of the evidence. A preponderance of the evidence is the evidence that has the most convincing force; that is the greater weight of credible evidence. office of equity and equal opportunity will consider all relevant information presented. This standard of evidence essentially asks, is it more likely than not that our rule was violated?



A copy of the office of equity and equal opportunity report will be given to both the complainant and the respondent. After the office of equity and equal opportunity report is issued, both the complainant and the respondent are permitted to review the office of equity and equal opportunity investigation file.

(K) Review

The complainant and the respondent each have the right to challenge the conclusion in the report by requesting a review by the vice president for institutional diversity and inclusion. A request for review must allege one or more of the following deficiencies in the investigative report:

- (1) That an alleged material violation of this rule occurred that resulted in a failure to conduct a reasonably thorough investigation, in which case the matter will be remanded back to office of equity and equal opportunity for additional investigation;
- (2) That new evidence exists that was not available at the time of the investigation; or
- (3) The conclusion is clearly erroneous and not supported by the investigation.

Requests for review must be submitted to the vice president for institutional diversity and inclusion within five class days of the issuance of the office of equity and equal opportunity report (class days include exam week).

The request for review must be submitted in writing, stating the basis for review and with all supporting materials attached. The request for review will be shared with all parties and the office of equity and equal opportunity for their response, if any. Responses shall be filed within five class days of the parties and office of equity and equal opportunity's receipt of the request for review.

The vice president for institutional diversity and inclusion will issue a written report and share it with all parties and the office of equity and equal opportunity.

(L) Disciplinary action



If there has been a finding of reasonable cause and a recommendation that the respondent be subjected to appropriate disciplinary action either in the office of equity and equal opportunity report or as a result of a review, the discipline, if any, to be imposed will be determined according to the procedures described in the student conduct regulations, if the respondent is a student; the Ohio civil service law or a collective bargaining agreement then in effect, whichever is applicable, if the respondent is a member of the classified staff; rule 3339-13-07 of the Administrative Code if the respondent is a member of the unclassified staff; or rule 3339-8-03 of the Administrative Code, if the respondent is a member of the instructional staff.

If disciplinary action is initiated, the complainant, the respondent, the person or office initiating disciplinary action, and the hearing officer/ body will be entitled to full access to the office of equity and equal opportunity investigation file and the file, if any, of the review.

If there has been a finding that reasonable cause exists to believe that a vendor, contractor, subcontractor, visitor, guest or other person who does business with the university has violated this rule, the matter shall be referred to the senior vice president for finance and business services for appropriate administrative action.

(M) Legal options

Complaints may also be filed with the United States department of education office for civil rights (www2.ed.gov/about/offices/list/ocr/docs/howto.html) or by consulting an attorney at the persons own expense.

(N) Miscellaneous

The university is committed to addressing all reports of harassment and discrimination in a prompt and equitable manner. The university uses its best efforts to complete the investigation of all reports within thirty calendar days. This timeline may be extended based upon the complexity, severity and extent of the alleged violation. The timeline may also be affected by the winter or spring break periods and summer or winter terms. This timeline does not include requests for review.



After a report of harassment or discrimination has been made, subsequent time limits specified in this rule may be extended by the vice president for institutional diversity and inclusion. Notice of the extension will be made in writing and will include the reason for the extension. Notification of extension will be made to both the complainant and the respondent.

It is a violation of this rule to knowingly make a false allegation of harassment or discrimination. However, failure to prove a claim of harassment or discrimination is not equivalent to making a false allegation. It is also a violation of this rule for an respondent or other person interviewed by office of equity and equal opportunity to knowingly make a false statement.