

Emory University Equal Opportunity and Discriminatory Harassment Policy

I. INTRODUCTION AND STATEMENT OF PRINCIPLES

Emory University is an inquiry-driven, ethically engaged, and diverse community dedicated to the ideals of free academic discourse in teaching, scholarship, and community service. Emory University abides by the values of academic freedom and is built on the assumption that contention among different views is positive and necessary for the expansion of knowledge, both for the University itself and as a training ground for society at large. Emory is committed to the widest possible scope for the free circulation of ideas.

The University, as an employer, is also committed to following applicable laws and maintaining an environment that is free of unlawful harassment and discrimination.

Thus, in accordance with federal law and its commitment to a fair and open campus environment, Emory cannot and will not tolerate discrimination against or harassment of any individual or group based upon race, sex, color, religion, ethnic or national origin, gender, age, disability, sexual orientation, gender identity, gender expression, veteran's status, or any factor that is a prohibited consideration under applicable law. Emory University welcomes and values all who work on campus, in whatever capacity, and promotes an open and genuinely diverse environment.

II. EQUAL OPPORTUNITY POLICY

Emory University is dedicated to providing equal opportunities to all individuals regardless of race, color, religion, ethnic or national origin, gender, age, disability, sexual orientation, gender identity, gender expression, veteran's status, or any factor that is a prohibited consideration under applicable law. Emory University does not discriminate in admissions, educational programs, or employment on the basis of any factor outlined above or prohibited under applicable law. Students, faculty, and staff are assured of participation in University programs and in the use of facilities without such

discrimination. Emory University complies with all applicable equal employment opportunity laws and regulations, and follows the principles outlined above in all aspects of employment including recruitment, hiring, promotions, transfers, discipline, terminations, wage and salary administration, benefits, and training.

III. DISCRIMINATORY HARASSMENT POLICY

In keeping with its commitment to maintaining an environment that is free of unlawful discrimination and in keeping with its legal obligations, Emory maintains a policy prohibiting unlawful harassment (and discouraging conduct that, while not unlawful, could reasonably be considered harassment as defined below). Discriminatory harassment of any kind is not appropriate at Emory, whether it is sexual harassment or harassment on the basis of race, color, religion, ethnic or national origin, gender, age, disability, sexual orientation, gender identity, gender expression, veteran's status, or any factor that is a prohibited consideration under applicable law. At the same time, Emory recognizes the centrality of academic freedom and the University's determination to protect the full and frank discussion of ideas. Thus, discriminatory harassment does not refer to the use of materials about or discussion of race, color, religion, ethnic or national origin, gender, age, disability, sexual orientation, etc. for scholarly purposes appropriate to the academic context, such as class discussions, academic conferences, or meetings.

A. Definitions and Description of Prohibited Conduct.

1. Sexual Harassment

Harassment on the basis of sex is a violation of Section 703 of Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. *Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:*

- *Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment (or a student's status)*
- *Submission to or rejection of such conduct by an individual is used as the basis for employment decisions (or academic decisions) affecting such individual or*

- *Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance (or a student's academic performance) or creating an intimidating, hostile, or offensive work (or academic) environment.*¹

Under the law, sexual harassment does not refer to occasional compliments or conduct of a socially acceptable nature. Nor does it refer to the use of materials or discussion related to sex and/or gender for scholarly purposes appropriate to the academic context. It does refer to any non-academic remarks or actions of a sexual nature that are not welcome and are likely to be viewed as personally offensive. This can include but is not limited to any of the following activities that are unwelcome by the recipient: physical or verbal advances; sexual flirtations; propositions; verbal abuse of a sexual nature; vulgar talk or jokes; degrading graphic materials or verbal comments of a sexual nature about an individual or his or her appearance; the display of sexually suggestive objects outside a scholarly context and purpose; and physical contact of a sexual or particularly personal nature. Cartoons, pictures, or other graphic materials that create a hostile or offensive working environment may also be considered as harassment. In addition, no one should imply or threaten that an employee's, applicant's, or student's "cooperation" with unwelcome sexual advances or requests for sexual favors (or refusal thereof) will have any effect on the individual's employment, assignment, compensation, advancement, career development, grades, or any other condition of employment or status as a student.

2. Discriminatory Harassment of a Non-Sexual Nature

The regulations defining sexual harassment clearly state that the same principles apply to harassment on the basis of any characteristic that is protected by law. Thus, Emory's policy prohibits discriminatory harassment of a non-sexual nature, which includes *verbal, physical, or graphic conduct that denigrates or shows hostility or aversion toward an individual or group on the basis of race, color, religion, ethnic or national origin, gender, age, disability, veteran's status, or other status protected by applicable law and that*

- *Has the purpose or effect of creating an intimidating, hostile, or offensive employment, educational, or living environment; or*

- *Has the purpose or effect of unreasonably interfering with an individual's work performance or a student's academic performance .²*

Emory also adopts these principles with regard to discrimination or discriminatory harassment on the basis of sexual orientation. As affirmed in the "Statement of Ethical Principles" adopted by the University in November 2004, "Emory seeks to uphold the dignity and rights of all persons through fair treatment, honest dealing, and respect. Emory is committed to creating an environment of work, teaching, living and learning that enables all persons to strive toward their highest potential."

Prohibited behavior may, for example, include conduct or material (physical, oral, written, or graphic, including e-mail messages posted or circulated in the community) involving epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts, that serves no scholarly purpose appropriate to the academic context and gratuitously denigrates or shows hostility or aversion toward an individual or group because of race, color, religion, ethnic or national origin, gender, age, disability, sexual orientation, gender identity, gender expression, veteran's status, or any factor protected by applicable law.

¹Words or phrases in italics reflect language appearing in applicable statutes or regulations. See Code of Federal Regulations, 29 C.F.R. Section 1604.11.

² See 29 C.F.R. Section 1604.11 .

3. Applicability of Policy

In determining whether the conduct at issue is sufficient to constitute discriminatory harassment in violation of this Policy, the conduct will be analyzed from the *objective standpoint of a "reasonable person"* under similar circumstances. No violation of the Policy should be found if the challenged conduct would not create a hostile environment (i.e., substantially affect the work environment of a "reasonable person.") See EEOC Policy Guidance on Current Issues of Sexual Harassment at www.eeoc.gov.

All harassing conduct prohibited by this Policy, whether committed by faculty, staff, administrators, or students, is strictly prohibited

and will bring prompt and appropriate disciplinary action, including possible termination of employment or permanent exclusion from the University. This Policy shall apply to any Emory-sponsored event or program, whether on or off campus, or other situations in which the Respondent is acting as a member of the Emory community.

The level of discipline imposed will depend upon the severity and pervasiveness of the conduct, which may be determined by the existence of prior incidents of harassment or discrimination. Depending upon the severity of the offense, however, a single violation of this Policy may be sufficient for termination of employment.

B. Prohibition Against Retaliation

Retaliation against an individual who, in good faith, complains about or participates in an investigation of an allegation of discrimination or harassment is prohibited by University policy. Any individual who feels he or she has been retaliated against, or has been threatened with retaliation, should report that allegation immediately to the Office of Equal Opportunity Programs (EOP).

C. False Accusations

Anyone who knowingly makes a false accusation of discrimination, harassment, or retaliation will be subject to appropriate sanctions. However, failure to prove a claim of discrimination, harassment, or retaliation does not, in and of itself, constitute proof of a knowing false accusation.

IV. RESOLUTION PROCESS

Emory is committed to the values of respect, civility, and community as set forth in the Statement of Ethical Principles. In addition to being unlawful, sexual and discriminatory harassment interfere with the University's educational mission and the practice of community. Individuals who believe that they have experienced or witnessed acts of discrimination or discriminatory harassment may seek resolution through several pathways. Any or all of the following steps may be pursued in resolving an incident of alleged discrimination or harassment.

A. Communicate Directly with the Alleged Harasser

If the person feels comfortable speaking directly with the alleged offending person to address concerns and obtain an appropriate resolution, he or she is encouraged to do so. Please understand that, while this method of resolution may be successful in solving the immediate problem, Emory will be unaware of the problem and thus unable to take any additional steps that might be necessary to address broader concerns. Individuals who choose not to address the alleged harasser directly, or who have not obtained a satisfactory resolution following such a discussion, are encouraged to utilize one of the other methods outlined below for addressing their concerns.

B. Enlist the Assistance of a Community Facilitator

An individual also has the option to pursue informal investigation, clarification and mediation through a Community Facilitator. To facilitate early resolution of alleged discrimination or harassment, and to encourage engagement by individuals familiar with the context of the complaint, the Community Facilitator will be chosen by the aggrieved individual from a pool of Community Facilitators. The Provost or his/her designee, in consultation with Deans, Department/Program chairs, division heads, and the President of the University Senate, will select the members of the pool from across the University. There shall be 15 to 20 Community Facilitators in the pool, at least one member from each school or business unit within Emory. They shall serve three year terms, with approximately one third of the members rotating out of the pool each year.

To ensure a high quality of peer support across units, all Community Facilitators will undergo training on dispute resolution and issues related to harassment and discrimination. As mechanisms for informal dispute resolution, the Community Facilitators do not have the right to sanction or punish, but rather to discuss the alleged conduct with the alleged harasser, to act as a mediator, and, if warranted, to seek a commitment from the alleged harasser to comply with this Policy. If in the opinion of the Community Facilitators, all good faith efforts to resolve the situation have been exhausted, the Community Facilitator may end the process and refer the matter to EOP.

As members of the University community, Community Facilitators have the obligation to report all allegations of discrimination or harassment to EOP and the Provost or his/her designee. Such

reporting will allow Emory University to monitor and react to trends related to allegations of discrimination and harassment, and to recommend further action, if necessary.

If at any point in this process, the complainant determines that this method of resolution is unsatisfactory, he/she has every right to file an internal complaint with EOP or an external complaint with EEOC. The Respondent also has the right to refuse to participate in the Community Facilitator process.

C. File an internal complaint

If an employee or student believes that he or she has been the victim of discrimination or discriminatory harassment, he or she may promptly report, without fear of reprisal, the facts of the incident and the name(s) of the individual(s) involved to the Office of Equal Opportunity Programs, located in Room 110 of the Administration Building. Dr. Robert W. Ethridge is the Vice President of Equal Opportunity Programs and he may be reached at (404) 727-6016. This initiates a complaint. Alternatively, the employee or student may report the situation to his or her immediate supervisor, department head, or Dean, who will immediately notify EOP of the complaint. Supervisors must immediately report any complaints they receive or incidents of alleged harassment or discrimination they witness to the Vice President of Equal Opportunity Programs, Robert W. Ethridge. However, if the complaint relates to the Vice President of Equal Opportunity Programs, the complaint should be directed to the Provost, or his designee, who shall appoint an appropriate investigator. The Office of Equal Opportunity Programs (or an alternate investigator, where appropriate) will investigate all timely claims of harassment and discrimination, regardless of whether such complaints are reduced to writing. All complaints of discrimination and harassment will be treated in the strictest confidence possible under the particular circumstances.

All complaints of discrimination or harassment should be filed as soon after the offending conduct as possible, but in no event more than 180 calendar days after the most recent conduct alleged to constitute discrimination or harassment.

Emory will not retaliate or take any adverse action against anyone for truthfully reporting conduct that he or she believes to be in violation of this Policy, or for participating in good faith in an

investigation of alleged discrimination or harassment, or for participating in any proceeding or hearing relating to such complaints.

Upon receipt of a complaint, the Vice President for Equal Opportunity Programs (or an appropriate alternate investigator) will assign an investigator who will, within thirty calendar days, investigate the circumstances of the allegations. However, if additional time is needed to conduct a thorough investigation, EOP may, in its discretion, extend the time for completing the investigation as reasonably necessary. In this case, EOP will notify the Complainant and the Respondent of the extension.

The investigation will include interviews with the complaining party, the Respondent, and any material witnesses identified, as well as a review of any documents or other evidence. The complaining party and the Respondent will be kept apprised of the conduct of the investigation and will be given the opportunity to provide any additional relevant information to the investigator, including the names of additional witnesses to contact and/or additional documents to review before the investigation is closed. At any time before the conclusion of the investigation, the Dean or equivalent division head of the unit of the University to which the Respondent is assigned may take interim emergency action (not involving reduction of compensation) until the conclusion of the investigation.

The final written determination will state only whether, based on EOP's investigation, there was a violation of this Policy. The Complainant and Respondent will be promptly notified of the final determination. The Office of Equal Opportunity Programs shall have no independent authority to impose sanctions.

If EOP finds that there has been a violation of this policy and if the Dean or division head seeks advice as to the appropriate penalty, EOP may provide a recommendation as to the appropriate sanction. The Dean or division head will then be responsible for deciding upon and imposing disciplinary action as soon as reasonably possible, but no more than one month after receiving the final determination and advice of EOP. The Dean or deciding official shall notify EOP of the penalty imposed, if any.

Sanctions imposed on those employees who have been found to be in violation of the University's Equal Opportunity Policy or its Discriminatory Harassment Policy shall be commensurate with the

severity and/or frequency of the conduct, and shall be adequate and sufficient to prevent such conduct in the future. The sanctions may include, but are not limited to, an apology to the victim; a verbal or written reprimand; a requirement to attend remedial training; appropriate workplace restrictions; denial of a merit pay increase or other benefit; denial of promotion; or reassignment, suspension or separation from the University. Staff members who receive disciplinary penalties under this policy may consult Human Resources for information about the Grievance process, which may be used to challenge alleged violations, misinterpretations, or inequitable application of policies or procedures.

Issues Specific to Faculty

If at any time during the investigation, a bona fide question arises out of a conflict between the principles of academic freedom and the requirements of this Policy, the Respondent or the Vice President for Equal Opportunity Programs may request that the Provost or his/her designee appoint a Faculty Review Panel to review the evidence and to provide advice to the EOP as to whether there was a violation of Policy. If the Provost agrees that the situation involves a bona fide conflict between the principles of academic freedom and the requirements of this Policy, he/she shall appoint a Faculty Review Panel. The convening, investigation and recommendation of the Faculty Review Panel will be concurrent with the investigation of EOP. The Faculty Review Panel will consist of a group of 5 to 7 faculty members, 3 of whom are from the Respondent's school, who will be chosen by the Provost from among a pool of eligible faculty members who are elected by University faculty. Once selected by the Provost, the Faculty Review Panel may question the Respondent, the Complainant, and any other witness necessary to adequately address the issue. The Faculty Review Panel may also review the EOP investigatory file and any other documentary evidence needed. The procedures shall be kept as confidential as possible so as to respect the rights of all involved parties. At the conclusion of its review, the Faculty Review Panel shall provide a recommendation to EOP as to whether they believe that there was a violation of the Discriminatory Harassment Policy. EOP shall include the recommendation of the Faculty Review Panel in submitting the final report to the Dean. The Dean shall make the final decision as to what, if any, sanctions may be appropriate under the circumstances.

Following a determination of sanctions, faculty may avail themselves of avenues of appeal as listed in the Statement of Principles Governing Faculty Relationships. Specifically, a faculty member shall be entitled to a hearing of the Faculty Hearing Committee when the sanction imposed by the Dean for violation of this Policy is the suspension, transfer, or termination of his/her employment.

D. File an External Complaint

An individual who believes that he or she has been subjected to unlawful discrimination, harassment, or retaliation has the right to file a complaint with an appropriate local, state, or federal agency, such as the Office of Civil Rights (OCR) or the Equal Employment Opportunity Commission (EEOC), within applicable time limits. In addition, any person who is dissatisfied with Emory's internal procedures utilized for handling complaints, or who is dissatisfied with the result of the investigation or the sanctions imposed, may seek redress through the EEOC, to the extent allowed by law. The Complainant should be aware that filing a complaint with the University's Office of Equal Opportunity Programs or other University resource does not extend or postpone the deadline for filing with external agencies. In the event that a complaint is filed with an external agency or court, the University reserves the right to determine, in its discretion, whether the University's internal complaint resolution procedure should be discontinued or continued separately.

V. OTHER

A. Complaints Against Vendors, Contractors, and Third Parties

Emory's commitment to providing members of its community with a working and learning environment that is free of discriminatory harassment includes freedom from inappropriate conduct by vendors, contractors, and third parties. If a member of the University community believes he or she has been subjected to harassing conduct by a vendor, contractor, or third party, he or she should report such conduct to the Office of Equal Opportunity programs, to his or her immediate supervisor or Dean, or to a higher University official. Such complaints should be forwarded to the Office of Equal Opportunity Programs immediately. EOP will work with the complaining party to investigate the complaint, and the University will take prompt corrective action if inappropriate conduct is found to have occurred.

B. Complaints Against Students

Students are bound by the principles outlined in this policy. However, complaints against students (when acting in the capacity as a student) shall be resolved under the Conduct Code provided by that student's school or college (unless the student's school or college conduct code provides otherwise.) Investigation of complaints against students who are acting in the capacity of an employee shall be conducted by the Vice President for Equal Opportunity Programs, or his/her designee, who shall report his/her findings and recommendations to the Vice President and Dean for Campus Life and the Dean of the school or college in which the student is enrolled.