

Anti-Harassment Policy

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, creative works, 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, religion, ethnic or national origin, age, disability, sex, gender, gender identity, gender expression, sexual orientation, veteran status, or any other bases prohibited by law. This policy extends to conduct on University property or off University property if the conduct occurred in connection with a University or University-sponsored event program or activity or the conduct has or reasonably may have the effect of creating a hostile educational or work environment for a member of the University community. 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” in this Policy 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, although when warranted, Human Resources will ensure that inappropriate or unprofessional conduct is addressed even when the allegations do not rise to the level of a policy violation. 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 bullying, will be taken seriously, and any person found to have engaged in harassment in violation of this policy may be subject to discipline, up to and including discharge. Further, the University reserves the right to investigate potential harassment it learns of even if no complaint has been filed.

The University will not tolerate retaliation against any person who has reported harassment or who participates in the investigation or resolution of a report of harassment. Retaliation means any adverse action taken against a person for alleging harassment, supporting a party bringing a complaint, or assisting in providing information relevant to a claim of harassment. Retaliation is a serious violation of University policy and will be treated as another possible instance of harassment. Acts of retaliation should be reported promptly to Human Resources. 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.

Special note about sexual harassment covered by Title IX: Federal regulations falling under Title IX of the Education Amendments Act of 1972 prescribe the procedures for investigating and responding to certain types of sexual harassment. Accordingly, conduct meeting the definition and jurisdictional elements of Title IX sexual harassment under the University’s [Sex Discrimination and Sexual Misconduct Policy](#) will be governed by that policy. For faculty, administrative staff and supportive operating staff, non-Title-IX sexual harassment will be governed by the procedures in this Anti-Harassment Policy. For students accused of a policy violation, investigation and resolution procedures for alleged non-Title-IX sexual harassment will be governed by the [Code of Student Conduct](#). All reports of sexual harassment will initially

be referred to the Title IX Coordinator or their designee for review and determination of whether the allegation presents a claim of Title IX sexual harassment or not. If the reported conduct does not present a claim within the definition or jurisdictional elements of Title IX sexual harassment (as defined in the [University's Sex Discrimination and Sexual Misconduct Policy](#)), but does present a possible claim of non-Title-IX sexual harassment (as defined in the [University's Sex Discrimination and Sexual Misconduct Policy](#)), the report will be evaluated under this Anti-Harassment Policy or the [Code of Student Conduct](#). The results of any investigation conducted under the University's, including but not limited to the investigative report and any related materials will be included in any investigation under this Anti-Harassment Policy.

For claims of non-Title-IX sexual harassment that involve sexual assault, dating violence, domestic violence, or stalking allegations, the following procedural protections will be provided to both parties through this Anti-Harassment policy or the:

- Continued access to Alternate Dispute Resolution of Informal Resolution procedures until a determination is reached as to whether a Policy violation occurred;
- Continued access to supportive measures outlined in the University's;
- Procedures are conducted by officials that receive annual training on issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability;
- Continued ability to bring an advisor of choice, who is not required to be a University employee, to any related meeting or proceeding;
- Both parties will receive simultaneous written notice of the result of the disciplinary proceeding, the procedures for appeal that will be available to both parties, any changes to the result, and when such results become final.

Reporting

The University will promptly review and respond to allegations of harassment or retaliation whether those allegations are reported informally as concerns or are submitted formally through a report or complaint. In applying this Anti-Harassment policy, the University remains committed to protecting academic freedom. Any member of the college or university community who believes that they have been the victim of conduct or has witnessed conduct that violates the Anti-Harassment Policy is encouraged to report the matter to a responsible University official: the Director or Associate Director of Human Resources, the Title IX Coordinator, the Dean of Students, or the Associate Provost for Diversity and Intercultural Education.

The reporting person will be asked to submit a written report or statement of the allegations. If the reporting person declines to submit a written statement or report, the University representative receiving the initial report will prepare a written summary of the allegations.

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. In an effort to protect privacy as well as the integrity of the reporting and investigation process, complainants, respondents, witnesses, and other individuals who may have information about a report are expected to maintain confidentiality to the extent permitted by law and policy.

Preliminary Review

Once a report has been submitted, the Department of Human Resources or its designee will conduct a preliminary review to determine whether the report alleges facts that, if true, might constitute a violation of the Anti-Harassment Policy. Where the allegations are unclear or require clarification, the investigator may seek additional information from the reporting party as part of the preliminary review.

When a preliminary review of a report indicates that the allegations, if true, might constitute a violation of this policy, the Office of Human Resources or its designee will initiate an investigation to determine if the facts are true and to determine whether a policy violation has occurred.

When the preliminary review indicates the allegations would not constitute a policy violation, the matter will not proceed to formal processing and the reporting party will be notified. When warranted, Human Resources will consult with the supervisor to ensure that any inappropriate conduct is addressed, even when the allegation does not rise to the level of a policy violation.

If the report raises issues that would fall outside this policy, but within the responsibilities of another campus unit, the matter can be referred to the appropriate, responsible University administrator.

In conducting the preliminary review of any allegation against a faculty member, the Department of Human Resources will consult with the Associate Provost for Diversity and Intercultural Education prior to determining whether the allegations, if true, might constitute a violation of this policy.

Investigation

Administrative Staff and Supporting Operating Staff

For allegations about administrative staff and supporting operating staff, if the preliminary review indicates that an investigation should be initiated, Human Resources will notify the respondent of the report and that an investigation is commencing, and the respondent will be provided with the opportunity to respond to the allegations.

Human Resources, at such time as is appropriate, will also notify the supervisor(s) of the respondent about the investigation.

It is expected that a reporting party will provide information relevant to their complaint in the time and manner deemed necessary and appropriate by the University to conduct the investigation.

The investigator (from Human Resources or a designee) will speak with the reporting party, the respondent, and relevant witnesses, and may conduct follow-up as needed. Parties and witnesses will be encouraged to provide any additional information and documentary or physical evidence (including e-mails, documents, or any other evidence) that may be relevant to the investigation. The investigator may also conduct follow-up interviews with parties and witnesses when needed. The investigation is designed to provide a fair and reliable gathering of the facts.

Faculty

For allegations about faculty, if the preliminary review conducted by Human Resources indicates that an investigation should be initiated, the Provost or designee will notify the respondent of the report and that an investigation is commencing, and the respondent will be provided with the opportunity to respond to the allegations.

It is expected that a reporting party will provide information relevant to their complaint in the time and manner deemed necessary and appropriate by the University to conduct the investigation.

If the responding faculty member maintains that the allegations involve their academic freedom, the Associate Provost for Diversity and Intercultural Education and two teaching faculty trained in this policy will extend the preliminary review to determine whether the conduct involves academic freedom as described in the University's policy on Academic Freedom and Freedom of Expression. If this team determines that the alleged conduct or some of the alleged conduct was a legitimate exercise of academic freedom, their recommendation to the Provost should be that the relevant conduct does not violate this Anti-Harassment Policy. If the Provost determines that the alleged conduct was a legitimate exercise of academic freedom, this will not constitute a violation of the Anti-Harassment Policy and the Provost will report that determination to the parties in writing.

If the allegations do not involve academic freedom, the Associate Provost for Diversity and Intercultural Education or their designee(s), in consultation with Human Resources, will conduct an investigation.

The investigator will speak with the reporting party, the respondent, and relevant witnesses, and may conduct follow-up as needed. Parties and witnesses will be encouraged to provide any additional information and documentary or physical evidence (including e-mails, documents, or

any other evidence) that may be relevant to the investigation. The investigator may also conduct follow-up interviews with parties and witnesses when needed. The investigation is designed to provide a fair and reliable gathering of the facts.

Resolution

Administrative Staff and Supporting Operating Staff

As to allegations against administrative staff and supporting operating staff, once the investigation has concluded, Human Resources will evaluate the information collected and apply a preponderance of the evidence standard to determine whether a policy violation is substantiated -- that is, whether based on the available evidence it is more likely than not that a violation occurred.

Human Resources will notify the parties in writing of the outcome of the investigation and determination as to whether any policy violation was substantiated.

In cases where a policy violation is substantiated, Human Resources will meet with the appropriate supervisor(s) and others as needed (e.g., the divisional Vice President or Provost) to discuss appropriate responsive action, including possible disciplinary action, to resolve the violation and prevent its recurrence. The Vice President of Student Development will be involved in the resolution of matters where the reporting person is a student. Any employee determined to have violated the Policy is subject to appropriate discipline, up to and including termination.

While the length of investigations and the decisional process may vary depending on their complexity and other factors, the process should be completed with all due pace.

Faculty

As to allegations against a faculty member, once the investigation has concluded, an investigative report will be completed setting forth the relevant facts, analyzing the relevant policy elements, and making a recommendation as to whether the alleged conduct occurred and constitutes a violation of the Policy. The investigator will evaluate the information collected and apply a preponderance of the evidence standard to determine whether a policy violation is substantiated -- that is, whether based on the available evidence it is more likely than not that a violation occurred.

Once the investigation report is completed, the matter will be referred to the Provost, who will consult with Human Resources and, when the allegations involve students, the Vice President of Student Development. The Provost 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 Provost, again in consultation with

Human Resources, and when the allegations involve students, the Vice President of Student Development, 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. Should evidence developed in the course of the full investigation lead the Provost to determine that the conduct was ultimately a legitimate exercise of academic freedom, this will not constitute a violation of the Anti-Harassment Policy.

The Provost will report the ultimate determination in writing. If a policy violation is found, the report should identify what discipline, if any, is being imposed. Any faculty member determined to have violated the Policy is subject to appropriate discipline, up to and including termination. If the discipline imposed is termination of a member of the faculty, the process outlined in the Faculty Handbook Section I.A.8 will be followed upon issuance of the Provost's determination.

In cases where a sanction other than termination is recommended, the responding party may appeal the decision and/or sanction to the University Appeals Board as described below.

Both the reporting and responding person shall be notified when the process is complete and will be provided those details of the results deemed appropriate to discuss with each party.

While the length of investigations and the decisional process may vary depending on their complexity and other factors, the process should be completed with all due pace.

Alternative Dispute Resolution or Informal Resolution

For allegations involving staff or faculty, at any time after submission of a report, a report may be resolved through an alternative dispute resolution process or an informal process provided that: (1) the reporting and responding parties agree and (2) Human Resources along with the appropriate divisional Vice President or Provost agree that an alternative dispute resolution process or informal resolution is appropriate.

Alternative or informal types of resolution can include: mediation or facilitated conversation, a restorative justice process, an agreement between the parties, agreed-to corrective action, and education or training. The process will be convened by the Director of Human Resources and/or the Provost or their designee(s).

Either party may terminate the alternative dispute resolution or informal resolution process at any time, in which case any matter that advances beyond the preliminary review stage will proceed according to the formal investigation and resolution process described above.

Allegations of conduct constituting Title IX misconduct are covered by the University's Sexual Discrimination and Sexual Misconduct Policy and may only be resolved using the procedures provided therein.

Appeal

Administrative Staff and Supporting Operating Staff

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 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.

Faculty

For faculty outcomes other than those required to proceed to the process outlined in the Faculty Handbook Section I.A.8, 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 members of the teaching faculty. 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 faculty member. A member of the UAB who is the appellant, 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 Provost 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 Provost’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 is 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 provided herein, 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 an appeal unless requested by the UAB.

In resolving any appeal, the UAB’s authority is limited to (1) upholding a decision, or (2) remanding 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 the Provost, 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.

Process Advisement

In all matters reviewed under this policy, the reporting and responding parties are entitled to select an advisor to accompany them in the various stages of the process, who must be an employee of the University. The parties may select an advisor of their own, or, from a list of trained advisors maintained by the University. The role of the advisor is to provide guidance and support, as University-trained advisors may provide information about Denison's investigation and resolution processes as they relate to harassment cases. The advisor may be present at all meetings the party attends throughout the investigation and resolution process. 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 meetings, such as by making 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 generally be permitted.