

NUMBER: STAF 6.24 (NEW)
SECTION: Student Affairs and Academic Support
SUBJECT: Student Non-Discrimination and Non-Harassment Policy
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Policy for: Columbia Campus
Procedure for: Columbia Campus
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Issued by: Office of Student Conduct

USC recognizes the human dignity of each member of the University community and believes that each member has a responsibility to promote respect and dignity for others so that all students are free to pursue their goals in an open environment, able to participate in the free exchange of ideas, and able to share equally in the benefits of the University's education opportunities. To achieve this end, the University believes it should foster an academic, social, and living environment that is free from discrimination and harassment on the basis of race, color, national origin, religion, sex, gender, age, disability, sexual orientation, genetics, veteran status, or any other category protected by law¹.

The University is also committed to the principles of academic freedom and believes that a learning environment where the open exchange of ideas is encouraged is integral to the mission of the University. The University vigorously embraces students' rights to the legitimate freedom of expression, speech, and association. Nothing in this policy is intended to impede the exercise of those rights protected under the First Amendment of the U.S. Constitution. The University recognizes that the conduct prohibited in this policy extends to behavior and speech that is not constitutionally protected and which limits or denies the rights of students to participate or benefit in the educational program.

The standard mandated by this policy represents the bare minimum of acceptable behavior. The University's commitment to civility, mutual respect, and tolerance should cause the members of the University community to adhere to an even higher standard of behavior in these matters—not because we are required to do so, but because conscience dictates it.

I. Policy

It is the policy of the University of South Carolina that all students should be able to learn and live in an educational and campus environment that is free from discrimination and harassment on the basis of race, color, national origin, religion, sex, gender, age, disability, sexual orientation, genetics, veteran status, or any other category protected by law, in all programs, activities, and services of the University.

¹ This policy recognizes federally protected categories of student characteristics as well as those characteristics protected as a matter of USC policy.

A. Scope

This policy applies to the conduct of students in all aspects of academic, residential, athletic, and social activities, operations, and programs at the University.² Any student or student organization that violates this policy shall be subject to disciplinary action up to and including suspension and expulsion from the University. Violations of this policy are considered to be a conduct offense under the USC Student Code of Conduct.

B. Definitions of Prohibited Conduct

1. Discrimination

Discrimination is the unfair or unequal treatment of an individual or a group based upon race, color, national origin, religion, sex, gender, age, disability, sexual orientation, genetics, veteran status, or any other category protected by law, that interferes with or limits the ability of an individual or group to participate in or benefit from the services, activities, or privileges provided by the University.

2. Harassment

Harassment is a specific type of illegal discrimination. It includes conduct (oral, written, graphic, or physical) which is directed against any student or group of students because of or based upon one or more of the characteristics articulated in Section II above, that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual or group to participate in or benefit from the programs, services, and activities provided by the University. Such harmful conduct may include, but is not limited to, objectionable epithets, demeaning depictions or treatment, and threatened or actual abuse or harm. Harassment does not include the use of materials by students or discussions involving students related to any characteristic articulated in Section II for academic purposes appropriate to the academic context.

3. Sexual Harassment

Sexual harassment is also included in this policy³. Sexual harassment is a specific type of discrimination which is defined as unwelcome conduct of a sexual nature

² The University has adopted the following specific policies and procedures pertaining to discrimination and harassment that apply to the conduct of other members of the University community, including employees, faculty, and third-party vendors:

University Policy EOP 1.00 Equal Opportunity and Affirmative Action
University Policy EOP 1.01 Equal Opportunity Complaint Processing Procedures
University Policy EOP 1.02 Sexual Harassment
University Policy EOP 1.03 Discriminatory Harassment
University Policy EOP 1.04 Non-Discrimination Policy.

³ The University's sexual harassment policy may also be found at EOP 1.02 Sexual Harassment.

that is sufficiently severe or pervasive that it adversely affects a student's or student group's ability to participate in or benefit from the programs and services provided by the University. Examples of conduct that may constitute sexual harassment in violation of this policy include, but are not limited to, the following types of unwelcome and harmful behavior:

- a. Physical Conduct
 - i. Unnecessary or unwanted touching, patting, massaging, etc.
 - ii. Impeding or blocking movements
 - iii. Acts of sexual violence
 - iv. Other unwanted conduct of a physical nature
- b. Non-Verbal Conduct
 - i. Suggestive or insulting gestures or sounds
- c. Verbal Conduct
 - i. Direct propositions of a sexual nature
 - ii. Sexual innuendos and other sexually suggestive or provocative behavior
 - iii. Repeated, unwanted requests for dates
 - iv. Repeated inappropriate personal comments
 - v. Unwelcome and inappropriate letters, telephone calls, electronic mail, or other communication or gifts
 - vi. Requests for sexual favors

Sexual harassment may occur between members of the same or opposite sex. Sexual harassment directed at any student or other member of the University community, regardless of his or her sexual orientation, is a violation of this policy.

Sexual harassment does not refer to occasional, nonsexual compliments, nonsexual touching, or other nonsexual conduct.

II. Procedures

A. Complaint Procedures

1. Any student may file a complaint with the Office of Equal Opportunity Programs (EOP) against another student, student organization, faculty, staff, or other member of the University community who is believed to have violated this policy or otherwise engaged in discriminatory or harassing behavior.

2. The Office of Equal Opportunity Programs (EOP) serves as the lead office for the receipt and investigation of all complaints of discrimination and harassment involving members of the University community, including complaints involving students and student organizations. Any student who believes he or she has been subjected to discrimination or harassment, or who has knowledge of or has witnessed discriminatory or harassing actions, should contact the EOP Office. The EOP Office can be contacted in person at 1600 Hampton Street (Suite 805), by e-mail at wellsr@mailbox.sc.edu, or by telephone at (803) 777-9560. In the alternative, a student can complete the on-line complaint form found at <http://www.sc.edu/eop/students.html>. Students who feel their safety is threatened should immediately contact Campus Security at (803) 777-4215 or (803) 777-8400.
3. In the event a student has a complaint after hours, or on weekends or holidays, the student can inform an available University official⁴ if the student believes immediate action is necessary. All University officials who are informed of a complaint by a student, who become aware of a complaint by other means, or who witness an act of discrimination and/or harassment involving students, are required to report this information to the EOP Office. If the complaint is such that the official believes it can be resolved by the official, with the consent of the students involved, and, if available, advice from the EOP Office, the official can attempt to resolve it. In all situations, however, whether the complaint is resolved or not, the official must report, in writing to the EOP Office by the next business day, the complaint, the names and contact information of the parties involved, and the resolution, if any, in order that the EOP Office can follow-up with the student to begin the resolution process or to ensure that the complaint was satisfactorily resolved and that no further investigation is needed.
4. The EOP Office will designate one staff member to handle student complaints and work with Student Affairs to ensure that the complaint is fairly and expeditiously investigated and if necessary, that appropriate sanctions are assessed.
5. In the event of an anonymous or victimless complaint, the EOP Office will investigate such complaints to the extent possible. The EOP will interview any witnesses to the acts and, if alleged offenders are identified, the alleged offenders. The EOP Office will then issue a report of findings to the Office of Student Affairs. The EOP Office and the Office of Student Affairs may use such incidents as an opportunity to inform and educate the University community.
6. Once a report of discrimination or harassment is received by the EOP Office, unless the complaint is anonymous, the EOP Office will contact the student who has made the complaint (“complainant”) to discuss confidentially the specifics of the complaint and provide guidance and information regarding the resolution

⁴For the purposes of this policy, University officials include Student Affairs staff, Housing staff, resident mentors, athletic coaches and directors, student organization advisors, Greek Life officials, faculty advisors, faculty deans, and security staff.

process. If the complaint has been resolved, the EOP Office will ensure that the complainant is satisfied with the resolution and determine whether further investigation is warranted.

7. Complainants will be asked to provide the following information: a description of the alleged acts, the date(s) the alleged acts occurred, the names, if known, of the individual(s) or group(s) allegedly engaging in discriminatory or harassing acts, and the names of witnesses, if any. If the complainant wishes his or her name not be disclosed, the EOP Office will explain that such a confidentiality request may limit the ability of the University to respond but that the EOP Office will take all reasonable steps to investigate consistent with the complainant's request as long as doing so does not prevent the EOP Office from responding effectively to the complaint or prevents the EOP Office from stopping potential discrimination or harassment of others. In all situations, the EOP Office will take every effort, to the extent allowed by law, to protect the privacy of the persons involved. The number of persons with knowledge of the complaint shall be kept to a minimum and only those persons with a need to know will be notified of the complaint.

Following this initial meeting, the student may choose not to pursue the complaint, request informal resolution by the EOP Office, or proceed with a formal complaint with the EOP Office.

8. If the EOP Office determines the complaint is one that can be resolved informally, the EOP Office will explain the informal resolution process to the complainant and if the complainant agrees, the EOP Office will proceed with informal resolution. Some complaints are not appropriate for informal resolution, such as sexual assault complaints or complaints that involve violence or a threat of violence. In the event a complainant withdraws his or her complaint before resolution is accomplished, the EOP Office will continue to investigate the complaint to the extent possible to determine what occurred and then recommend, if appropriate, steps to remedy the situation.
9. In certain circumstances, the University may impose emergency action upon a student or student organization when there is reason to believe, based upon available evidence, that the student or student organization poses an immediate threat to the safety, health, or welfare of persons, property, or to the orderly operation of the University. Such emergency action can include, but is not limited to, suspension, limitation of privileges, or housing relocation or removal. Emergency action is interim in nature pending the outcome of conduct procedures. Emergency actions and procedures are fully described on the Office of Student Conduct website at <http://www.housing.sc.edu/osc/cp.html>. In cases involving potential criminal conduct, the EOP Office will determine whether appropriate law enforcement authorities should be notified.

B. Resolution Procedures

1. Informal Resolution

The informal resolution process is intended to be flexible so as to enable the EOP Office to address a complaint in the most effective and expeditious manner possible. Informal resolutions are accomplished with the consent of the complainant and assistance of other offices or administrators on campus in the area relevant to the complaint. The complainant, after receiving explanation of the informal resolution process, will be asked to sign a form consenting to informal resolution.

Informal resolution may be achieved by: (a) action taken by the complainant, when appropriate, to address the matter directly with the alleged offender; (b) action to negotiate a resolution undertaken by the EOP Office; or (c) mediation undertaken by the EOP Office. The complainant, at his or her discretion, may end the informal process and begin the formal resolution process at any time.

Although the process focuses on conciliation, not sanctions, disciplinary action, including an oral or written warning may be issued if agreed upon by all parties. In all cases in which informal resolution is achieved, the EOP Office will make a written report of the resolution to file with the copy of the complaint. In the event an oral or written warning is issued to an alleged offender, if the alleged offender is an employee, a copy of the warning is sent to employee's supervisor. In the case of a student or student organization, a copy of the warning is sent to the Office of Student Conduct. If the complaint is not settled by informal resolution, the EOP Office will proceed to formal resolution.

2. Formal Resolution

In a formal resolution process, the EOP Office will provide a copy of the complaint to the alleged offender within five (5) days either personally or by certified mail. The alleged offender ("respondent") will have ten (10) days in which to respond in writing to the complaint. A copy of the respondent's response will be provided to the complainant.

The EOP Office will assign the complaint to an investigator. Upon receiving the respondent's response, the EOP investigator may attempt to negotiate a resolution which is agreeable to both parties. If no negotiated resolution is achieved, or if a negotiated resolution is not feasible, the investigator will initiate a formal investigation of the complaint.

a. Complaint Investigation

The investigator will interview the complainant, the respondent, witnesses identified by the parties, and anyone else whom the investigator believes may have knowledge of the facts regarding the complaint. The

investigator may conduct independent research regarding the facts of the complaint. Investigations are normally completed within 15 working days but if warranted by circumstances, this time may be increased at the discretion of the investigator.

b. Complaint Findings

Based on the information obtained during the investigation, the EOP Office will issue a report of its findings to the complainant and respondent. There are two categories of findings: (1) no reasonable cause to believe illegal discrimination or harassment occurred, or (2) reasonable cause to believe a violation has occurred.

- i. In the event the EOP Office finds there is no reasonable cause to believe that illegal discrimination or harassment occurred, the complaint will be dismissed and the complainant will be advised that if he or she is dissatisfied with the decision, a complaint can be filed with the Office of Civil Rights of the United States Department of Education or the Civil Rights Division of the United States Department of Justice. In situations where the alleged acts do not rise to the level of illegal discrimination or harassment, the EOP Office, if it believes the situation is appropriate, may inform the University community of the occurrence(s) in order to educate the community about issues presented by the behavior and reaffirm the University's commitment to equal opportunity.
- ii. In the event the EOP Office finds that there is reasonable cause that a student or student organization engaged in illegal discrimination or harassment, the EOP Office will issue a report of findings, along with recommendation as to appropriate sanctions to the Director of the Office of Student Conduct. If the student is also an employee of the University, and the conduct involves the student's capacity as a University employee, the report must also be forwarded to the student respondent's immediate administrative official.⁵ The report of findings will include a statement of the complaint, a chronology of the investigation, the information discovered, witness summaries, a list of documents pertinent to the investigation, the findings of the EOP Office, and any recommended sanctions the EOP Office believes are warranted.

c. Student Hearing Procedures

- i. The Office of Student Conduct (OSC) will then send written notification to the accused student or student organization

⁵ If the respondent is a University staff member or faculty member, the report of findings will be issued to the respondent's immediate administrative supervisor and the appropriate Vice President.

representative indicating the nature of the complaint. The student or student organization representative will be given the opportunity to meet with the OSC to discuss the allegations. Failure of the student or student organization representative to meet with the OSC could result in disciplinary action being imposed based on the available evidence. If the student or student organization representative disagrees with the finding of the EOP Office or the recommended disciplinary action, the student or student organization representative is offered several options to resolve the charges, including an informal administrative hearing, a formal administrative hearing, a University conduct hearing⁶, or mediation. At any such hearing, the EOP investigator will present the report of findings. The procedures for these hearings are fully described on the Office of Student Conduct website at <http://www.housing.sc.edu/osc/cp.html>.

- ii. Decisions resulting from administrative hearings or a University conduct hearing may be appealed by a student or a student organization to the Vice President for Student Affairs in the following limited situations: (1) there was a procedural error committed in hearing the case which significantly prejudiced the findings; or (2) new evidence, which could not have been available at the time of the hearing and which is material to the outcome of the case, becomes available. The procedure for appeal is fully described on the Office of Student Conduct website at <http://www.housing.sc.edu/osc/cp.html>.

d. Student Sanctions

- i. The EOP Office and the OSC may recommend sanctions to the appropriate hearing tribunal. Disciplinary action for student or student organization violations of this policy may include a variety of sanctions. The severity of the sanctions are determined by several factors, including but not limited to: whether there was physical harm or threat of physical harm to others; whether there was violence or the threat of violence; whether there was damage to University or student property; whether the respondent had engaged in similar conduct in the past; whether the proposed sanction will provide education and training to deter future violations; whether the proposed sanction will make the victim whole; and whether the proposed sanction will increase the University community's awareness of student discrimination and harassment.

⁶ Jurisdiction over violations of this policy by Greek organizations or members of Greek organizations will be with the OSC, not the Greek Life Office.

- ii. Sanctions for individual student violations may include the following: expulsion, suspension, conduct probation, conditions/restrictions on University privileges, written warning, fines and restitution, housing sanctions, required attendance at educational or community service events, and any other sanctions deemed appropriate by the EOP Office and OSC.
- iii. Sanctions for student organization violations may include the following: permanent revocation of organizational registration, suspension of rights and privileges for a specified period of time, conduct probation, conditions/restrictions, written warning, fines and restitution, required attendance at education or community service events, and any other sanctions deemed appropriate by the EOP Office and the OSC.

e. Record Keeping

While a complaint is being investigated, all evidence regarding the complaint must be maintained in the confidential files of the official handling the complaint and should be transferred to EOP Office once the complaint is resolved where all records regarding the complaint will be kept in confidential files within the EOP Office. These records will include the complaint, interview notes, witness statements, correspondence, investigation summaries and reports, and documentation of remedial actions. Access to these records shall be on a need to know basis only. These records will be maintained for a minimum of five years.

C. Non-Retaliation

It is a violation of this policy for any person to retaliate, intimidate or take reprisals against a person who has filed a complaint, testified, assisted or participated in any manner in the investigation or resolution of a complaint of discrimination or harassment. Appropriate disciplinary actions shall be taken against any person who has been found to have violated this policy.

D. Other

1. Reporting and Monitoring

The EOP Office will provide an annual report to the President of the University summarizing the discrimination and harassment complaints and the resolution (informal and formal) of such complaints. The University will also conduct a survey of students every three years to gauge students' knowledge of this policy and complaint procedures. The results of these surveys will be used to improve the procedures and policies of the EOP Office and the Office of Student Affairs.

2. Dissemination and Training

The EOP Office, in conjunction with the Office of Student Affairs, is responsible for ensuring that all students at the University are aware of their right to be free from discrimination and harassment. To achieve this goal, all new students will be informed of this policy and their rights and obligations under it during orientation. Information describing the policy is readily available on various University websites, including the student handbook, with links to the policy, and the online complaint form. Posters and brochures describing this policy can be found at various sites on campus where students congregate such as residence halls, Student Life offices, academic buildings, student organization offices, eating halls, Greek housing, etc.

Training will be provided to students and student organizations in order that students know and understand their rights and obligations under the policy, to whom to report violations, and the procedures for investigations and hearings. Training will also be provided to faculty and staff members who interact with students in order that these individuals understand their responsibility to report any incidents of discrimination or harassment report to or observed by them.

III. Related Policies

University Policy EOP 1.00 Equal Opportunity and Affirmative Action
University Policy EOP 1.01 Equal Opportunity Complaint Processing Procedures
University Policy EOP 1.02 Sexual Harassment
University Policy EOP 1.03 Discriminatory Harassment
University Policy EOP 1.04 Non-Discrimination Policy
University Policy STAF 6.00 Disability Discrimination