



Policy Name:	Policy on Equal Opportunity and Non-Discrimination		
Associated Forms:	Online Complaint Form: https://www.mercy.edu/discrimination-complaint-form	Policy Number: 2022-3	
Approval Authority:	President <i>Timothy L. Hall</i>	Adopted:	March 16, 2022
Reviewed:	Non-Academic Policy Committee	Approved:	March 14, 2022
Responsible Executive:	President	Revised:	March 2016; October 2019
Responsible Office:	Equity Compliance	Contact:	Director of Equity Compliance

I. Applicability of this Policy

This Policy applies to the following Mercy University community members (“Community Members”), all of whom can be either the victim of prohibited discrimination, harassment or retaliation (the “complainant”) or the person accused of such conduct (the “respondent”):

A. Students.

B. Employees, including all full-time and part-time faculty and staff at all of Mercy University’s campuses and locations.

C. Applicants for employment or student admission to the University.

D. Contractors, which for the purposes of this Policy means contractors, subcontractors, vendors, consultants or other persons providing services pursuant to a contract in the workplace with the University or who is an employee of such a contractor, subcontractor, vendor, consultant or other person providing services pursuant to a contract in the workplace with the University (hereinafter “Contractors”).

II. Policy Statement

A. Equal Opportunity Statement

Mercy University is committed to achieving full equal opportunity in all aspects of University life. The University shall recruit, employ, retain, and promote employees, and shall admit and provide services for students, without regard to an individual’s race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender, gender identity or expression, transgender status, marital status, familial status, partnership status, disability (including HIV/AIDS), genetic information, predisposing genetic characteristics, alienage, citizenship, criminal arrest and conviction records, military or veteran status, salary history, credit history, caregiver status, pregnancy or lactation status, sex and reproductive decisions, status as a victim of domestic violence/stalking/sex offenses/sex abuse, unemployment status, or any other legally prohibited basis in accordance with federal, state, county and city laws.

B. Non-Discrimination Policy

The University is committed to maintaining a workplace for its employees and an academic and social environment for its students free from prohibited discrimination, harassment and retaliation, as defined below. Therefore, the University strictly prohibits discrimination, harassment and retaliation of any of its students, applicants for admission, employees, applicants for employment, and contractors.

C. Other Relevant Policies

1. The University’s Reasonable Accommodations Policies

The University is committed to providing reasonable accommodations when appropriate to individuals with disabilities, individuals observing religious practices, and employees and students who have pregnancy or childbirth-related medical conditions in accordance with Reasonable Accommodations Policies. There are separate procedures under which Community Members may request and seek review of a decision concerning reasonable accommodations for a disability. These are set forth in Mercy's *Policy and Procedures for Implementing Reasonable Accommodations and Academic Adjustments for Students* and *Mercy's Policy and Procedures for Implementing Reasonable Accommodations for Employees*.

2. The University's Policy and Procedures Related to Sexual Misconduct

Community Members with complaints of sexual harassment or sexual violence, including sexual assault, stalking, domestic and intimate violence, should contact the University's Director of Title IX. For contact information, to file a complaint online and/or to learn more about the complaint process pursuant to *Mercy's Policy on Sexual Misconduct*, please visit: <https://www.mercy.edu/about-mercy/title-ix>.

3. Application of Other University Policies

When conduct may involve more than one policy, the University will in its sole discretion determine which policy or policies shall govern the handling of a potential violation, based on the circumstances of the allegation and the terms of any other policy. An individual who has a question about which policy applies in a specific instance can contact the University's Director of Equity Compliance at TitleIX.Equity@mercy.edu or (914) 674-7679.

III. Prohibited Conduct: Definitions

A. Discrimination is the adverse treatment of a Community Member because of that individual's actual or perceived protected characteristics—such as race, color, religion, sex, gender, national origin, or any of the other bases referenced above which are prohibited by this Policy. Such conduct can also be unlawful if it subjects a Community Member to inferior terms, conditions or privileges because of that individual's membership or perceived membership in one or more of these protected categories.

B. Harassment is a form of discrimination that, in sum, consists of unwelcome conduct based on a Community Member's protected characteristic that has the purpose or effect of unreasonably interfering with that individual's work or academic performance or which creates an intimidating, hostile or offensive work environment for employees and Contractors and an intimidating, hostile or offensive academic and/or social environment for students. The conduct may be spoken, written, visual, and/or physical. Conduct that a reasonable person would consider petty slights and/or trivial inconveniences may not amount to illegal harassment. Please note that this Policy covers prohibited harassment based on all protected characteristics, except it does not apply to

sexual harassment or sexual violence, because those matters are covered by the *Mercy University Policy on Sexual Misconduct*. While no list can be exhaustive, some examples of actions that may constitute prohibited harassment when based on a protected characteristic may include, but are not limited to:

- Verbal abuse or hostile behavior, which could include insulting, teasing, mocking, degrading, or ridiculing another person or group;
- Inappropriate physical contact, comments, questions, advances, jokes, epithets, or demands;
- Racial slurs, derogatory remarks about a person's accent, or display of racially offensive symbols;
- Unwelcome conduct of a non-sexual nature based on actual or perceived sex, such as mocking a person's appearance or clothing as more suited to a person of the opposite sex, or intentionally using the wrong pronoun to identify a transgender individual;
- Physical assault; or
- Displays or electronic transmission of derogatory, demeaning, or hostile materials. Harassment can occur in many mediums and locations, including via email, text, voicemail, social media or other electronic forms of communication or messaging systems, and can occur on campus, at University-sponsored events or programs, or other off-campus venues.

C. Retaliation. The University strictly prohibits retaliation against any Community Member for reporting or opposing discrimination or harassment or cooperating with an investigation of such a complaint. Retaliation is the adverse treatment of an individual because the individual made a discrimination or harassment complaint, opposed discrimination or harassment, was a witness to discrimination or harassment, or cooperated with an investigation of a discrimination or harassment complaint. Retaliation can also occur based on an individual making a retaliation complaint. Retaliation includes, by way of example, threatening, intimidating, harassing or any other conduct that would discourage a reasonable person from engaging in activity protected under this Policy.

D. Other Inappropriate Conduct. While this Policy is intended to prevent prohibited discrimination, harassment and retaliation as defined in Section III above, conduct by any Community Member or third party which does not rise to the level of prohibited discrimination, harassment or retaliation may still be prohibited by the University. Examples of such conduct include but is not limited to bullying, inappropriate verbal, physical, written or other kind of conduct directed at any Community Member or a third party on one of the University's campuses or at a University-sponsored event. The University will, in its discretion and in accordance with all other Mercy University handbooks, written contracts, policies, procedures and/or collective bargaining agreements, process such complaints and take action as it deems appropriate, including discipline or other penalties, but is not bound by the procedures in this Policy.

IV. Discrimination, Harassment and Retaliation Procedures

A. The University's Commitment

The University is committed to addressing prohibited discrimination, harassment and retaliation complaints promptly, consistently and fairly to the extent possible. Although there is no time limit to file a complaint with the University, the University encourages immediate reporting. In general, the University's Director of Equity Compliance shall be responsible for, among other things, addressing prohibited discrimination, harassment, and retaliation complaints under this Policy.

D. Reporting Prohibited Discrimination, Harassment and/or Retaliation

1. Community Members (who are not supervisory or managerial employees) with complaints under this Policy, or those who have witnessed, who believe they have witnessed or who have knowledge of such conduct, should immediately report the conduct. Set forth below are the University's reporting procedures for Community Members:

a) Students and Student Applicants

In the case of incidents of prohibited discrimination, harassment or retaliation alleged to have been committed against students or student applicants, the student complainant or other reporting party may make a report, either online at <https://www.mercy.edu/about-mercy/mercy-Universitypolicies/equity-compliance> or to any of the following campus officials/offices:

- The Director of Equity Compliance;
- The Office of Campus Safety;
- The Office of the Vice President of Student Affairs; or
- The Office of Residential Life.

b) Employees, Applicants for Employment and Contractors.

In the case of incidents of discrimination, harassment or retaliation alleged to have been committed against employees, employment applicants or Contractors, the complainant or other reporting party may make a report, either online at <https://www.mercy.edu/about-mercy/mercy-Universitypolicies/equity-compliance> or with any of the following:

- Their immediate supervisor;
- The next level supervisor or manager in the relevant department;
- The Director of Equity Compliance; or
- The Office of Human Resources.

Once any of the campus individuals or officials/offices above is notified of an incident of alleged discrimination, harassment or retaliation, they shall immediately report the matter to the Equity Compliance Specialist and shall coordinate with the appropriate University office(s) to address the matter in accordance with this Policy, including taking interim protective measures and accommodations.

2. All management and supervisory personnel have an affirmative duty to immediately report any discrimination, harassment, or retaliation that they observe, learn about from others, or reasonably suspect has occurred with respect to any Community Member to the Director of Equity Compliance.

For purposes of this Policy, managers and supervisors are employees who either (a) have the authority to make tangible employment decisions with regard to other employees, including the authority to hire, fire, promote, compensate or assign significantly different responsibilities; or (b) have the authority to make recommendations on tangible employment decisions that are given particular weight. Managers and supervisors include but are not limited to: vice presidents, directors, deans, associate deans and academic unit heads. For questions regarding supervisor or manager title or status, contact the Office of Human Resources. It is imperative that managers and supervisors not only adhere to but enforce this Policy. A manager or supervisor who fails to report discrimination, harassment or retaliation that they knew or should have known about could be subject to disciplinary action up to and including termination. Managers and supervisors have a special obligation not to engage in discrimination, harassment, or retaliation. Managers and supervisors who knowingly allow discrimination, harassment and/or retaliation to continue will be disciplined up to and including termination in accordance with relevant Mercy University handbooks, written contracts, policies or procedures and/or collective bargaining agreements.

3. Any **employee** who receives a complaint shall maintain, to the greatest extent possible, the privacy of all information in connection with the complaint, including the identities of the complainant and the respondent. Such information will be shared only with those who have a legitimate need for the information.

4. All **Community Members** are required to cooperate in any investigation of a discrimination, harassment, or retaliation complaint.

V. Investigation of Complaints

The following is the general procedure for the investigation of prohibited discrimination, harassment and/or retaliation complaints under this Policy:

A. Meeting with the Complainant. Upon the receipt of a complaint, the Director of Equity Compliance shall, whenever possible, meet with the complainant. The Director of Equity

Compliance will inform the complainant of the options available. These options generally include a complainant seeking informal resolution of the issues the complainant has encountered or the University conducting a full investigation.

B. Filing of a Complaint. Following the discussion with the Director of Equity Compliance, individuals who wish to pursue a complaint of discrimination, harassment and/or retaliation will be directed to file the form in writing online. While it is preferred that complaints are made in writing whenever possible, it is not required for informal resolution or an investigation to proceed.

C. Informal Resolution. Individuals who believe they have been discriminated, harassed or retaliated against may choose to resolve their complaints informally. Informal resolution is a process whereby parties may participate in a search for fair and workable solutions. The parties may agree upon a variety of resolutions, including but not limited to modification of work assignment, class reassignment, training for a department, or an apology. The Director of Equity Compliance will determine if informal resolution is appropriate considering the nature of the complaint. Informal resolution requires the consent of both the complainant and the respondent in writing and suspends the complaint process for up to thirty (30) calendar days, which may be extended upon consent of both parties in writing, at the discretion of the Director of Equity Compliance. Resolutions must be agreed to in writing by both parties. If no informal resolution of a complaint is reached at the conclusion of thirty (30) calendar days or an agreed upon extension, the Director of Equity Compliance will proceed with an investigation.

D. Investigation. The University will conduct a prompt, fair and thorough investigation to the extent possible. Upon a preliminary review of the complaint, the Director of Equity Compliance shall commence a full investigation of a complaint, as warranted, or after informal resolution has failed. During the course of the investigation, the complainant and respondent will be apprised to the extent possible regarding the facts and circumstances of the complaint and all of the steps in the process, including witness interviews, the gathering of any physical evidence, and the potential for corrective and/or disciplinary procedures and possible sanctions for violations of this Policy.

E. Withdrawing a Complaint. A complaint under this Policy may be withdrawn at any time during the informal resolution or investigation process. Only the complainant may withdraw a complaint. Requests for withdrawals must be submitted in writing to the Director of Equity Compliance. The University, however, reserves the right to continue with an investigation despite a complainant's withdrawal of a complaint if, in its sole discretion, it determines such investigation is warranted. In a case where the University decides to continue with an investigation, it will inform the complainant. In either event, the Director of Equity Compliance will notify the respondent in writing that the complainant has withdrawn the complaint and whether University officials have determined that continuation of the investigation is warranted for corrective or disciplinary purposes.

F. Timeframe of the Investigation. While some complaints may require extensive investigation, whenever possible, the investigation of a complaint should be completed within sixty (60) calendar days of the receipt of the complaint. If there is a delay in completing the investigation, the Director of Equity Compliance shall notify the complainant and the respondent in writing and shall keep the parties periodically abreast of timing issues.

G. Report of Findings. Following the completion of the investigation, the Director of Equity Compliance will provide a report of the findings of whether there has been a violation under this Policy to the appropriate University official who would be responsible for taking corrective measures or issuing discipline for violations of this Policy, as set forth below. For example, in general, the report is provided as follows:

- If the respondent is a student, to the Vice President of Student Affairs;
- If the respondent is a non-faculty employee, to the Director of Human Resources;
- If the respondent is a faculty member, to the Provost;
- If the respondent is a senior level manager, to the President;
- If the respondent is the President, to the Chair of the Board of Trustees;
- If the respondent is a member of the Board of Trustees, to the General Counsel; or
- If the respondent is a Contractor, to the General Counsel.

VI. Disciplinary Action

If a violation of this Policy has occurred, the appropriate University official(s) as determined by the University, in consultation with the Director of Equity Compliance, shall authorize such action as they deem necessary to properly correct the effects of or to prevent further harm to an affected party or others similarly situated, in accordance with applicable Mercy University handbooks, written contracts, policies or procedures and/or collective bargaining agreements.

The range of penalties that may be imposed for those found to have violated this Policy include but are not limited to the following:

- **Students:** probation, removal from housing, removal from a sports team or other school activity, suspension or expulsion following the relevant disciplinary procedures.
- **Employees (including faculty):** reprimand, suspension or termination of employment following the relevant disciplinary procedures, if applicable.
- **Contractors:** If the respondent is neither a Mercy student nor a Mercy employee, the University will take appropriate action, such as restricting the respondent's access to the University's campuses and/or requiring they be removed from the University's account.

The Director of Equity Compliance shall, to the extent possible, apprise the complainant and respondent contemporaneously in writing of the outcome and action, if any, taken as a result of the complaint.

VII. Appeals

Any Mercy University employee, student, applicant, or contractor who is a respondent or a complainant may appeal a finding under this Policy within ten (10) days from the written notice of the finding to the Director of Equity Compliance. Appeals will only be considered for the following grounds: (a) procedural error, (b) newly discovered evidence that was not reasonably available at the time of the finding, and (c) the disproportionate nature of the penalty. All appeals must be made in writing. The Director of Equity Compliance will forward the appeal to one of the following personnel based on the student or employment status of the respondent, regardless of whether it is the respondent or complainant filing the appeal:

- If the respondent is a student or applicant, to the Director of Human Resources or Provost;
- If the respondent is a non-faculty employee or applicant, to the Vice President of Student Affairs or Provost;
- If the respondent is a faculty member or applicant, to the Director of Human Resources or Vice President of Student Affairs;
- If the respondent is a senior level manager, to the Provost or Director of Human Resources;
- If the respondent is the President, to the Chair of the Board of Trustees;
- If the respondent is a member of the Board of Trustees, to the General Counsel; or
- If the respondent is a Contractor, to the General Counsel.

VIII. Interim Protections and Accommodations

The University will take immediate steps to protect the complainant in the educational and employment setting, including taking interim protective measures and by providing accommodations, as appropriate, during an investigation. The complainant will be informed by the Director of Equity Compliance in writing of such interim protective measures and accommodations, which may include, among other things:

- Making necessary changes to academic programs;
- Making necessary changes to residential housing situations;
- Changing an employee's work assignment or schedule; and/or
- Offering counseling services to the complainant and the respondent, through the Health and Wellness Center or a referral to an off-campus agency.

In certain circumstances, interim suspension of an employee or student may be imposed if, in the University's discretion, it is warranted based on the facts and circumstances of the case in accordance with applicable Mercy University handbooks, written contracts, policies, or

procedures and/or collective bargaining agreements.

IX. False and Malicious Accusations

Any Community Member who makes false and/or malicious complaints of discrimination, harassment, or retaliation under this Policy, as opposed to complaints which, even if erroneous, are made in good faith, will be subject to disciplinary action.

X. Anonymous Complaints

All complaints under this Policy will be taken seriously, including anonymous complaints. Individuals do have the option at any time to file an anonymous complaint through the University's Whistleblower Hotline at 1-888-OK-MERCY (1-888-656-3729) or by using the online complaint form at <https://www.mercy.edu/about-mercy/mercy-University-policies/equity-compliance>. In the event that a complaint is anonymous, the complaint will be investigated as thoroughly as possible under the circumstances, although the University may be limited in the extent of the investigation that it can conduct.

XI. Responsibilities

A. Director of Equity Compliance

The University's Director of Equity Compliance shall be trained to carry out their responsibilities (as described above) and shall also be responsible for ensuring that all managers and supervisors receive annual training on this Policy. The Director of Equity Compliance shall also disseminate this policy annually to the entire University community and include the Director of Equity Compliance's name and contact information as well as resources available at the University. Such information should be widely disseminated, including placement on the University website and shall be provided in the language provided by an employee if identified at the time of hiring as a language other than English. For the purposes of this Policy, in any situation, the Director of Equity Compliance may designate certain duties to a designee who is trained to carry out the responsibilities under this Policy.

B. Managers and Supervisors

In addition to promptly reporting complaints under this Policy to the Director of Equity Compliance, managers and supervisors must take steps to create a workplace free of discrimination, harassment, and retaliation, such as participating in and requesting, when necessary, departmental equity compliance training. They must also take each and every complaint seriously.

C. Members of the University Community-at-Large

Community Members who become aware of allegations of discrimination, harassment or retaliation should encourage the aggrieved individual to report the alleged behavior. All employees and students are required to cooperate in any investigation.

XII. Filing External Complaints

Complainants have the right at any time to file complaints alleging violations of other federal, state, county or city laws with any of the other appropriate agencies, such as the New York State Division of Human Rights (<https://dhr.ny.gov/>), Westchester County Human Rights Division (<https://humanrights.westchestergov.com/>), the New York City Commission on Human Rights (<https://www1.nyc.gov/site/cchr/index.page>) or the United States Equal Opportunity Employment Commission (<https://www.eeoc.gov/>).

NOTICE OF NON-DISCRIMINATION

Mercy University is committed to fostering a diverse community of outstanding faculty, staff, and students, as well as ensuring equal opportunity in employment and equal opportunity in education including educational programs and activities, without regard to an individual's race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender, gender identity or expression, transgender status, marital status, familial status, partnership status, disability (including HIV/ AIDS), genetic information, predisposing genetic characteristics, alienage, citizenship, arrest and conviction records, military or veteran status, salary history, credit history, caregiver status, pregnancy or lactation status, sex and reproductive decisions, status as a victim of domestic violence/stalking/sex offenses/sex abuse, unemployment status, or any other legally prohibited basis in accordance with federal, state, county and city laws. Mercy University adheres to federal, state, county, and city laws and regulations regarding nondiscrimination. Should any federal, state, county or city law or regulation be adopted that prohibits discrimination based on grounds or characteristics not included in this Policy, discrimination on those additional bases will also be prohibited by the University.

The University does not discriminate on the basis of any of the protected characteristics referenced above in its programs and activities or in its treatment, admission or access to its programs or activities. Therefore, discrimination or harassment of University employees, students, applicants for employment or admission, and non-employees (defined explicitly to include only contractors, subcontractors, vendors, consultants or other persons providing services pursuant to a contract in the workplace or who is an employee of such a contractor, subcontractor, vendor, consultant or other person providing services pursuant to a contract with the University) is strictly prohibited by the University. In addition, retaliation for (1) reporting or opposing discrimination or harassment,

(2) cooperating with an investigation of a discrimination or harassment complaint, or (3) requesting an accommodation, is strictly prohibited by the University.

The University is also committed to providing reasonable accommodations when appropriate to individuals with disabilities, individuals observing religious practices, and employees who have pregnancy or childbirth-related medical conditions, which is set forth more fully in the Mercy University *Policy and Procedures for Implementing Reasonable Accommodations and Academic Adjustments for Students*, and the Mercy University *Policy and Procedures for Implementing Reasonable Accommodations for Employees*.

The University's policy addressing discrimination, harassment and retaliation is set forth more fully in the Mercy University Policy on Equal Opportunity and Non-Discrimination. The University's policy addressing sexual harassment and sexual violence is set forth more fully in the Mercy University *Policy on Sexual Misconduct* available on the University's webpage, <https://www.mercy.edu/about/title-ix>.

The University further adheres to the state, county and city laws regarding pay equity via the Policy and Procedures Relating to *the New York City and New York State Laws Barring Inquiries into the Wage and Salary Histories of Applicants and Current Employees*.

Inquiries regarding the application of Title IX and other laws, regulations and policies prohibiting discrimination or harassment should be directed to Mercy University Director of Title IX and Equity Compliance, at TitleIX.Equity@mercy.edu or 914-674-7679.

Inquiries regarding reasonable accommodations and academic adjustments for students should be directed to the Director of Accessibility, Office of ACCESSibility Main Hall, Room 109, Dobbs Ferry, ACCESSibility@mercy.edu or (914) 674-7764. Inquiries regarding reasonable accommodations for employees should be directed to the Executive Director of Human Resources, Office of Human Resources, Verrazano Hall, Dobbs Ferry, HR@mercy.edu, (914) 674-7337.