

WASHINGTON STATE UNIVERSITY
EXECUTIVE POLICY MANUAL

Executive Policy #15

Revision Approved December 18, 2014

Policy Prohibiting Discrimination, Sexual Harassment, and Sexual Misconduct

POLICY

Purpose

Discrimination in all its forms, including discriminatory harassment, sexual harassment, and sexual misconduct (including sexual assault and other sexual violence), destroys mutual respect and a trusting environment, can bring substantial personal harm to individuals, and violates individual rights. Such behaviors are prohibited and are not tolerated at Washington State University (WSU or the University). This policy expresses WSU's commitment to maintain an environment free of all forms of discrimination.

This policy applies to all students, faculty, staff, and others having an association with the University including, but not limited to, such individuals at all campuses and WSU employment sites. This policy applies whether conduct occurs on campus or off campus, if the continuing effects of the conduct have the potential to unreasonably interfere with or limit an individual's work, academic performance, living environment, personal security, or participation in any WSU activity. WSU's Office of Civil Rights Compliance and Investigation (CRCI) is the University's central intake office for matters involving discrimination, sexual harassment, and sexual misconduct. All WSU employees and units must coordinate with CRCI on matters that implicate this policy.

Definitions of terms follow below. In some cases, certain definitions from the WSU Standards of Conduct for Students are incorporated into this policy and apply to *all* persons subject to this policy, not just students.

WSU is committed to the principles of free inquiry and free expression; vigorous discussion and debate are fundamental to the University. This policy is not intended to stifle teaching methods or freedom of expression. Discrimination, as prohibited in this policy, is conduct that is neither legally protected as an expression of free speech, nor the proper exercise of academic freedom. Discrimination compromises the integrity of the University, its tradition of intellectual freedom, the trust and respect expected in the University community, and the rights of individuals.

Discrimination Prohibited

This policy prohibits discrimination on the basis of the following protected classes and/or characteristics:

- Race
- Sex/gender
- Sexual orientation
- Gender identity/expression
- Religion
- Age
- Color
- Creed

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Protected classes (cont.)

- National or ethnic origin
- Physical, mental or sensory disability, including disability requiring the use of a trained service animal
- Marital status
- Genetic information
- Status as an honorably discharged veteran or member of the military

Discriminatory harassment, a form of discrimination, is also prohibited (see also [Sexual Harassment Prohibited](#)). Discriminatory harassment is improper conduct toward a particular individual, individuals, or groups on the basis of one or more of the protected classes indicated above, that is sufficiently severe, persistent, or pervasive that it has the purpose or effect of:

- Creating an intimidating, hostile, or offensive environment; or
- Unreasonably interfering with work, academic performance, living environment, personal security, or participation in any WSU activity.

Examples of behaviors that may constitute discrimination include, but are not limited to:

- Denying someone an employment or educational opportunity or benefit because of their gender, race, or disability;
- Treating individuals differently because of their national origin or age (for example, giving them less advantageous working conditions);
- Following a practice or policy that disproportionately impacts women or members of another protected class; or
- Severe, persistent, or pervasive name calling, jokes, or other verbal or physical behavior towards a person based on their sexual orientation or perceived sexual orientation.

Sexual Harassment Prohibited

Sexual harassment is a form of discrimination based on sex and/or gender and is prohibited by this policy. Sexual harassment encompasses unwelcome verbal or physical conduct of a sexual nature.

Quid pro quo sexual harassment occurs when:

- Submission to unwelcome verbal or physical conduct of a sexual nature is made either explicitly or implicitly a term or condition of any individual's employment or education; or
- Submission to or rejection of unwelcome verbal or physical conduct of a sexual nature by an individual is used as the basis for employment or educational decisions affecting the individual.

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Sexual Harassment Prohibited (cont.)

Sexual misconduct, which includes sexual assault and other sexual violence, is a form of sexual harassment and is also prohibited by this policy (see [Sexual Misconduct Prohibited](#)).

Sexual harassment also encompasses *gender-based harassment*, which means harassment of a non-sexual nature that occurs because of a person's sex and/or gender. It includes harassment based on a person's nonconformity with sex and/or gender stereotypes.

Sexual harassment creates a *hostile environment* when behavior is sufficiently severe, persistent, or pervasive to interfere with an individual's work or educational performance, or creates an intimidating, hostile, or offensive work or educational environment. Examples include, but are not limited to, the following:

- Physical assault
- Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, work references, or letters of recommendation.
- Sexual behavior that is unwelcome. Such behavior may include, but is not limited to, the following:
 - Comments of a sexual nature.
 - Sexually explicit statements, questions, jokes, or anecdotes.
 - Unnecessary or undesirable physical contact.
 - Unwanted, offensive, and/or uninvited comments about another's physical appearance.
 - Display of pictures with sexual content.
 - Persistent, unwanted attempts to change a professional relationship to an amorous relationship.
 - Subtle propositions for sexual activity or direct propositions of a sexual nature.
 - Uninvited letters, e-mails, telephone calls, or other correspondence referring to or depicting sexual activities.
 - Any of the above carried out via the Internet or social media (*cyber harassment*).

Other offenses that may constitute sexual harassment when based on sex and/or gender include, but are not limited to:

- Threatening or causing physical harm, extreme verbal abuse, or other conduct that threatens or endangers the health or safety of any person.

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Other offenses (cont.)

- Intimidation, which is defined as implied threats or acts that cause a reasonable fear of harm in another.
- Hazing, as defined in *WAC* 504-26-206.
- Bullying or workplace violence, as defined in *BPPM* 50.30.
- Intimate partner violence, which includes violence or abusive behavior within an intimate partner relationship. Intimate partner violence may also be referred to as domestic violence or dating violence. It can be physical, sexual, emotional, verbal, economic, or psychological in nature and can include actions or threats of actions that influence or harm an intimate partner.
- Stalking, as defined in *WAC* 504-26-223.

Sexual Misconduct Prohibited

Sexual misconduct is a form of sexual harassment and is prohibited by this policy. The definition of sexual misconduct in *WAC* 504-26-221 is used for purposes of this policy. Sexual misconduct includes sexual assault and other sexual violence.

To File a Complaint

Anyone who has experienced conduct implicated by this policy, or any third party who witnesses or becomes aware of conduct implicated by this policy, should contact CRCI or a Title IX Co-Coordinator. For incidents on regional campuses, Global Campus, or Extension facilities, the incident may be reported to the designated Title IX Liaison for that area, who reports the incident to CRCI. The list of Title IX Co-Coordinators and Title IX Liaisons is available on the CRCI website at:

crci.wsu.edu

Individuals who file a complaint with CRCI can expect to receive information regarding resources available at WSU and in the community that provide counseling and support. CRCI also provides information regarding the investigation process and interim measures that may be available while the investigation is pending (see [Interim Measures](#) under Investigation Procedures below).

After an incident is reported to CRCI, WSU takes appropriate steps to stop the discriminatory behavior, prevent its recurrence, and remedy its effects. These steps typically include a prompt, effective, and impartial investigation (see [Investigation Procedures](#)).

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File a Complaint (cont.)

Generally within one working day of receiving a complaint, CRCI provides written materials to the complainant regarding WSU's policies, procedures, and available resources. These materials include the name of a contact person for questions or comments regarding this policy and CRCI's complaint procedures.

Reporting Criminal Behavior to Police

Anyone who has experienced sexual misconduct, sexual assault, stalking, domestic violence, or another crime may choose to report the incident to the police. WSU's process under this policy is separate from the criminal process and can be pursued simultaneously (see [Investigation Procedures](#)). In most cases, CRCI defers to the complainant's wishes regarding whether to contact police and/or file a criminal complaint; however, there are situations in which the safety of the WSU community or other considerations may require CRCI to report an incident to police. CRCI attempts to inform the complainant of its decision when this occurs.

Confidential Consulting Protected by Law

Anyone who has experienced conduct implicated by this policy may choose to consult with a licensed mental health care provider or health care provider (see [resources](#)). By law, such professionals are able to assist victims confidentially and are exempt from legal obligations to report incidents for investigation, with some exceptions (for example, child abuse, elder abuse, certain threats of harm) (see WSU Employee Reporting Responsibilities below for a list of other offices that are able to provide a level of confidentiality).

WSU Employee Reporting Responsibilities

Incidents Involving Sexual Harassment or Sexual Misconduct

WSU employees who have information regarding an incident or situation involving sexual harassment or sexual misconduct are required to promptly report the information to CRCI or to one of the designated Title IX Co-Coordinators or Title IX Liaisons. The list of area Title IX Co-Coordinators and Title IX Liaisons is available on the CRCI website at:

crci.wsu.edu/title-ix/

There are limited exceptions to this requirement. The exceptions are:

- Employees who are statutorily barred from reporting (for example, health care providers and mental health care providers acting in their capacities as health care and mental health care providers);
- Employees, interns, professional trainees, and other similar individuals who are not statutorily barred from reporting but who provide services to students in WSU's Counseling and Testing Services or are otherwise designated by WSU to provide mental health services, or who provide services to students in WSU's Health and Wellness Services;

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Limited exceptions (cont.)

- Employees participating in a preventative education program for students regarding sex and gender-based violence or a related program, during which a student discloses having experienced sexual harassment or sexual misconduct; and
- Employees who have no authority to take action to redress sexual harassment or sexual misconduct and who could not reasonably be viewed by students as having such authority (for example, certain nonsupervisory custodial or dining services staff); such employees are nonetheless strongly encouraged to report all instances of sexual harassment and sexual misconduct to CRCI.

Other Incidents of Discrimination

WSU employees with supervisory responsibility must report all incidents of discrimination and discriminatory harassment to CRCI, including incidents that do not involve sexual harassment or sexual misconduct. All other WSU employees are strongly encouraged to report such incidents.

Interim Measures

In some cases, WSU employees with supervisory responsibility must take immediate action to end offending conduct and protect the well-being of the complainant. Supervisors must take such interim measures in consultation with CRCI, HRS, and the WSU Division of the Attorney General's Office (see also [Interim Measures](#) under Investigation Procedures below).

Other Reporting

Under state law (*RCW* 26.44.030(1)(f)), all administrative, academic, and athletic department employees, including student employees, are required to report suspected child abuse or neglect to law enforcement or to the Washington State Department of Social and Health Services. All other higher education employees are required to report suspected child abuse or neglect to their supervisor within 48 hours and also should report these incidents to law enforcement (*RCW* 28B.10.846).

Discrimination, Sexual Harassment, and Sexual Misconduct Awareness, Prevention, and Response Training

WSU employees are required to complete Discrimination, Sexual Harassment, and Sexual Misconduct Awareness, Prevention, and Response Training. To learn more about this training requirement, see:

hrs.wsu.edu/dshp

Individual units may require employees to complete additional training and may submit requests to CRCI for specific training needs.

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Retaliation and Interference Prohibited

This policy prohibits retaliation. Retaliation includes any act that would dissuade a reasonable person from making or supporting a complaint, or participating in an investigation, under this policy. It includes action or threat of action that could negatively affect another's employment, education, reputation, or other interest. **Retaliation is a separate and distinct violation of this policy.** Retaliatory acts should be reported immediately to CRCI and are handled promptly, effectively, and equitably.

Interference with the complaint or investigation process is also prohibited and constitutes a violation of this policy. Interference includes, but is not limited to, actions that dissuade or attempt to dissuade complainants or witnesses from reporting or participating in an investigation, or actions that delay or disrupt, or attempt to delay or disrupt, an investigation.

Investigation Procedures

CRCI conducts prompt, fair, effective, and impartial investigations of incidents of alleged discrimination, sexual harassment, and sexual misconduct. For complete information regarding investigative procedures, consult CRCI's Procedural Guidelines for Responding to Allegations of Violation of the WSU Policy Prohibiting Discrimination, Sexual Harassment, and Sexual Misconduct:

crci.wsu.edu/oeo-procedural-guidelines-2/

Investigations under this policy are subject to the following:

- **Confidentiality.** WSU takes confidentiality seriously. Investigative information is shared with others on a need-to-know basis only, including with investigators, witnesses, the accused individual, and relevant WSU officials, or as required or permitted by law. In some cases, the investigation file may be subject to requests for public records; WSU redacts identifying or other information when legally permissible.

When a complainant requests confidentiality or that WSU not proceed with an investigation, WSU respects that request to the extent possible. WSU's legal obligation to provide a safe and nondiscriminatory environment may require that CRCI proceed with an investigation, which may require investigators to share limited identifying information about a complainant. CRCI informs a complainant if this occurs. In all cases, CRCI works with the complainant to provide resources and support.
- **Conflict of Interest.** An investigator does not participate in an investigation in which he or she has a conflict of interest. A conflict of interest means the existence of an interest that could reasonably affect or appear to affect the impartiality of the investigator.
- **Criminal Complaints.** Under this policy, a complainant has the option to file a criminal complaint with the police. The criminal process can be pursued simultaneously. WSU does not wait for the conclusion of a criminal case to investigate possible violations of this policy. In some cases, a temporary suspension of WSU's investigation may be necessary when

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Investigation Procedures (cont.)

requested by law enforcement. However, WSU's investigation resumes promptly once WSU is notified by law enforcement that it may proceed. An outcome reached in a criminal process does not necessarily determine the outcome of WSU's process.

- **Interim Measures.** WSU takes appropriate interim steps before a final resolution to support and protect the complainant, as needed. Such steps may be taken regardless of whether complainant wishes to pursue the complaint. WSU may impose a "no-contact" order, which typically includes a directive that the parties refrain from having contact with one another. Other interim measures include, but are not limited to, altering the academic, WSU housing, and/or WSU employment arrangements of the parties. When taking such steps, WSU seeks to minimize unnecessary or unreasonable burdens on either party; however, every reasonable effort is made to allow the complainant to continue in his or her academic, WSU housing, and/or WSU employment arrangements. Violations of such protective measures may lead to disciplinary action.
- **Participation of Parties.** When appropriate, WSU seeks the consent of the complainant to proceed with an investigation but informs each complainant that alleged violations of this policy may be investigated regardless of consent. If any party or witness declines to participate in an investigation, WSU continues the investigation to the extent possible. WSU, as an employer, expects all employees to participate and cooperate with all investigations.
- **Investigation Process.** The complainant and the respondent are given the opportunity to provide information and evidence to the investigator, including names of witnesses. The parties are also given the opportunity to provide oral and written statements. Except in extraordinary circumstances, both parties are given written notice of the outcome of the investigation, an opportunity to respond, and an opportunity to appeal.
- **Appeals.** For cases in which the respondent is a student, the opportunity to appeal is provided through the student conduct process. For other cases, the opportunity to appeal is provided through CRCI's procedural guidelines:

crci.wsu.edu/oeo-procedural-guidelines-2/

See also [Enforcement and Disciplinary Sanctions](#).

- **Standard of Proof.** WSU uses a "preponderance of the evidence" legal standard to evaluate allegations of violations of this policy, which means it is *more likely than not* that the behavior or incident in the complaint occurred.
- **Timeframes.** CRCI seeks to complete all investigations promptly after receipt of a complaint. An investigation of sexual assault, sexual misconduct, or domestic violence is typically completed within 60 calendar days unless there is good cause to extend that time frame.

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Enforcement and Disciplinary Sanctions

The University vigorously enforces this policy. Persons determined to have violated this policy are subject to sanctions imposed using the procedures set forth in applicable University policies and handbooks (e.g., the *WSU Faculty Manual*, the *Administrative Professional Handbook*, WAC 357-40 (civil service employees), applicable collective bargaining agreements, or the *WSU Standards of Conduct for Students*, WAC 504-26), including any appeal procedures therein. The chosen sanction is to be adequately and appropriately severe to prevent future offenses. The sanctions that are imposed, or other actions taken, must be reported to CRCI by the administrator or supervisor who imposes the sanctions.

In addition, inappropriate and unprofessional behavior by WSU personnel that does not rise to the level of a policy violation (e.g., unwelcome sexual comments that are not sufficiently severe, persistent, or pervasive to constitute sexual harassment), may nonetheless be subject to corrective or disciplinary action in some cases.

Malicious or Frivolous Allegations Prohibited

The University disciplines members of the University community who knowingly make false or frivolous allegations of discrimination, sexual harassment, or sexual misconduct. No complaint is considered malicious or frivolous solely because it cannot be corroborated.

Office of Civil Rights Compliance and Investigation

French Administration, Room 225
Pullman, WA 99164-1022
509-335-8288
crci.wsu.edu

RESOURCES

The resources listed below represent only a selection of the resources available. For additional resources, including resources specific to each campus location, as well as state and federal compliance offices, visit:

crci.wsu.edu/resources/

WSU Title IX Coordinator, Co-Coordinators, and Liaisons:

WSU Title IX Coordinator:

Kimberly Anderson

Director, Office of Civil Rights Compliance and Investigation
French Ad 225
anderson34@wsu.edu
509-335-8288

WSU Title IX Co-Coordinators and Liaisons:

For the list of current Title IX Co-Coordinators and campus Liaisons, see the CRCI website:
crci.wsu.edu

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Confidential Resources

In most instances, service providers from the following resources can speak with individuals confidentially about their concerns:

WSU Pullman Confidential Resources:

Counseling and Testing Services
509-335-4511
counsel.wsu.edu/

WSU Health and Wellness Services
509-335-3575
hws.wsu.edu/

Alternatives to Violence of the Palouse
24-hour crisis line:
1-877-334-2887 or 509-332-HELP

WSU Employee Assistance Program
509-335-4521
hrs.wsu.edu/resources/employee-assistance-program/

Regional Campuses Confidential Resources:

WSU Spokane—Counseling Services
Academic Center 145C
Spokane, WA 99210-1495
509-358-7740
severing@wsu.edu

WSU Tri-Cities—Counseling Services
Tri-Cities West Building 269 E
Richland, WA 99354
509-372-7153
www.tricity.wsu.edu/counseling/

WSU Vancouver—Counseling Services
Student Services Center, rooms 111 & 113
Vancouver, WA, USA 98686-9600
360-546-9238
studentaffairs.vancouver.wsu.edu/counseling-services

Health and Wellness Services
(For students at all WSU locations)
24 Hour Consulting Nurse: 509- 335-3575

Confidential Resources for Employees at all WSU Locations:

**Washington Department of Personnel
Employee Assistance Program**
(For employees at all WSU locations):
1-877-313-4455 (toll free)
www.dop.wa.gov/EAP/

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Additional Resources

For information about additional resources, including resources specific to each campus location and state and federal compliance offices, visit:

crci.wsu.edu/resources/

Human Resource Services

French Administration, Room 139
Pullman, WA 99164-1014
509-335-4521
hrs.wsu.edu/

Regional Human Resource Services

Spokane: 509-358-7566
Tri-Cities: 509-372-7302
Vancouver: 360-546-9587

WSU Police

Public Safety Building
Pullman, WA 99164-7300
509-335-8548

For Emergencies: Dial 911

University Ombudsman

Wilson-Short Hall, Room 2
Pullman, WA 99164-4002
509-335-1195
ombudsman.wsu.edu
(Serving all campuses)