



---

## Policy DE003: Harassment, Intimidation and Bullying

Recommended for Approval by: *Eric Guiser*

---

Eric Guiser, Senior Associate Vice President for Human Resources

Approved by:

A handwritten signature in black ink, appearing to read "L. Bernotsky", is written over a horizontal line.

---

Dr. Lorraine Bernotsky, Interim President

**Effective Date:** 12/6/2023

---

### A. Intent

This policy is intended to define harassment, intimidation, and bullying; to provide information about these issues; to establish a mechanism for handling allegations of harassment and intimidation that occur on campus or at campus sponsored events from current students, employees, campus visitors and guests.

This policy shall be reviewed as dictated by changes in PASSHE policy or state and federal law.

### B. Definition(s)

**Harassment** is Behavior consisting of physical or verbal conduct that is sufficiently severe or pervasive such that it substantially interferes with an individual's employment, education or access to University programs, activities or opportunities and would detrimentally affect a reasonable person under the same circumstances. Harassment may include, but is not limited to, verbal or physical attacks, graphic or written statements, threats, or slurs. Whether the alleged conduct constitutes prohibited harassment depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs and the status of the individuals involved.

Additionally, harassment against any individual on the basis of race, sex/gender, color, age, religion, ancestry, national origin, disability, organizational affiliation, sexual orientation, gender stereotype, marital status, veteran status, or any other protected class status as defined by applicable federal or state law is discriminatory. This includes harassing conduct affecting tangible job benefits, interfering unreasonably with an individual's work or educational performance, or creating what a reasonable person would believe is an intimidating, hostile, or offensive environment. Discriminatory Harassment is further defined and covered under Policy DE002 - Non-Discrimination Policy

**Intimidation or the act of intimidation** is defined as behavior or conduct that intentionally or knowingly puts another person in fear of imminent bodily injury.

**Bullying** is defined as any written, verbal or physical act, or any electronic communication, directed toward a person that is intended to cause or that a reasonable person would know is likely to cause, and that actually causes, physical harm or substantial emotional distress and thereby adversely affects the ability of another person to participate in or benefit from the university's educational programs or activities.

**Cyber-bullying** is defined as an intentional electronic act of bullying as defined above.

### C. Policy

The University is committed to creating and maintaining a campus environment that is free of harassment, intimidation, and bullying. University policy prohibits committed acts that are severe or pervasive enough to have the impact of unreasonably interfering with an individual's ability to live, learn, and work at Pennsylvania Western University. Such acts include, but are not limited to, acts of bullying, including cyber-bullying, intimidation or danger to the person, criminal mischief, harassment by communication or address and arson.

University policy, therefore, prohibits violence, harassment, intimidation, bullying, and intentionally inciteful acts directed toward any individuals or groups regardless of protected class status as defined by applicable federal or state law.

### D. Procedure(s)

#### **Confidentiality and Due Process**

The Equity and Title IX Office will make every effort to ensure confidentiality and protect the due process rights of the complainant and the respondent. Additionally, the complainant, respondent, and witnesses are encouraged to maintain confidentiality consistent with the intent of the University.

Both parties shall be informed by the investigator of the procedural steps taken during the course of the complaint procedures and investigation.

This policy adheres to the due process rights contained within all Pennsylvania State System of Higher Education collective bargaining agreements and Board of Governors Merit Principle Policy.

#### **Retaliation Prohibited**

Retaliation against any person who alleges harassment and/or intimidation or who reports or assists the Equity and Title IX Office in the investigation of a complaint under this policy is prohibited and may result in disciplinary action up to and including termination or expulsion from the University.

#### **Reporting Procedures**

Reporting such allegations of unlawful or prohibited harassment, intimidation, or bullying should occur as follows:

- A. **Report from:** A current employee, including faculty members, staff members, administrators, or student workers who believes s/he is the target of harassment and other forms of prohibited discrimination.

**Report to:** Executive Director of Equity and Title IX or Associate Director of Equity and Title IX.

- B. **Report from:** A current student who believes s/he is the target of harassment and other

forms of prohibited discrimination.

**Report to:** Student Conduct Office or Associate Director of Equity and Title IX.

- C. **Report from:** A campus visitor or guest, service contractor or provider, or other individual who believes that s/he has been subjected to harassment and other forms of prohibited discrimination by a current employee or student.

**Report to:** Executive Director of Equity and Title IX or Associate Director of Equity and Title IX.

- D. **Report from:** A student, campus visitor or guest, service contractor or provider, or other individual who believes that s/he has been subjected to unlawful or prohibited discrimination by the University President or a member of the President's Executive Council.

**Report to:** Office of the Chancellor

All individuals have an obligation to report any information they have pertaining to harassment, including acts of bullying, or intimidation so that the matter may be addressed in a timely manner.

Some harassing behavior might violate criminal laws and, as such, individuals should feel free to discuss any actions with the University Police Department.

### **The Role of Advisors**

If a complainant or a respondent desires, s/he may be accompanied throughout the complaint process and investigation by an individual who may advise and assist the complainant or respondent throughout the complaint resolution process.

The advisor may be any individual from within the University community. The advisor may be an attorney or union representative. Each party is responsible for coordinating and scheduling with their advisor.

A complainant or respondent and an advisor may consult with each other, but the advisor does not speak for or on behalf of the complainant or respondent.

### **Complaint Resolution Procedure**

The purpose of complaint resolution is to investigate complaints of harassment, intimidation, or bullying and to facilitate a formal resolution of the complaint based on a determination or finding of a violation of this policy.

The procedure for complaints calls for prompt review followed by action intended to prevent any harassment or intimidation. The complaint resolution process may result in disciplinary action.

#### **Step 1: Filing a Complaint.**

Complaints of harassment, intimidation, and/or bullying should be filed no later than 180 days after the alleged act or behavior. It is in the best interest of all, however, to conduct a timely review of the circumstances of the alleged discriminatory act or behavior; accordingly, complainants are urged to file complaints as soon as possible. Therefore, individuals who have complaints of harassment and/or intimidation are encouraged to come forward.

Complaints against University employees are filed with the Executive Director of Equity and

Title IX or Associate Director of Equity and Title IX. The Senior Associate Vice President for Human Resources will be informed of any complaints that are filed.

Complaints against University students are handled through the student conduct process. Complaints against University students, however, also should be reported to Associate Director of Equity and Title IX. A report shall be made to the Assistant Vice President of Student Affairs and Campus Life or his/her designee who will inform the complaining individual about the student conduct process.

Complaints against the University President or any member of the President's Executive Cabinet should be filed with the Office of the Chancellor.

### **Step 2: Form of Complaint.**

The University strongly encourages complaints be in writing in order to ensure accuracy. Any person may use the complaint form provided in this policy to file a complaint (see APPENDIX A). The complaint, however, must be signed and dated by the complainant.

Unsigned written or anonymous complaints will be addressed and investigated as warranted; however, the ability to substantiate unsigned or anonymous complaints is compromised.

### **Step 3: Preliminary Inquiry.**

Following receipt of a complaint of harassment, intimidation, or bullying, the Executive Director of Equity and Title IX or their designee will promptly determine whether the complaint is properly classified under this Policy. Absent unusual circumstances this process should be completed within 5 business days of the receipt of the complaint. Where a complaint with a student as respondent alleges actions that do not fall within this policy, the Executive Director of Equity and Title IX or their designee may refer the complaint to the Inclusive Community Assessment Team (ICAT) or Dean of Students. Additional information about the ICAT can be found here: <https://www.clarion.edu/about-clarion/leadership/office-of-the-president/office-of-diversity-equity-and-multicultural-affairs.html>. Where a complaint with an employee as respondent alleges actions that do not fall within this policy, the Executive Director of Equity and Title IX or their designee may refer the complaint to the Human Resources Office.

### **Step 4: Investigatory Review.**

Investigatory reviews into allegations of harassment and/or intimidation, against employees are normally conducted by the Executive Director of Equity and Title IX or their designee.

Allegations of harassment and/or intimidation against students are handled through the Student Conduct Office.

Upon receiving a complaint, the Associate Director of Equity and Title IX shall commence an investigatory review of the allegations.

The investigatory review will be processed without undue delay absent exigent circumstances.

**Step 5: Investigation Completion.**

At the conclusion of the investigatory review, the parties in a complaint shall receive notification that an investigative report has been completed and forwarded to the appropriate official for further action, if warranted.

**Step 6: Determination.**

For complaints against students, the Student Conduct Office will follow the Student Code of Conduct process for hearings and conduct a hearing based on the information discovered through the investigatory process in order to determine whether a violation of the Policy or Student Code of Conduct has occurred.

For complaints against employees, the President or designee will decide what action will be taken, including, but not limited to, the dismissal of the complaint or the imposition of discipline. The President or designee will notify the respondent regarding the final outcome of the complaint and the basis for the decision. The decision of the President shall be final. The complainant will receive a letter from the Office of the President regarding the outcome of the complaint and the basis of the decision, without providing specific details regarding the resolution.

All records of the formal process, including the decision of the President, will be kept in the Office of Equity and Title IX for three years. In the event of an adverse ruling against the respondent, a copy of the decision of the President shall be placed in the respondent's personnel file.

**Step 7: Policy Violation.**

If a violation of this policy has occurred, timely disciplinary action will occur that may range up to and including termination of employment or expulsion from the University in accordance with University policy.

If a student is found to have harassed and/or intimidated another person(s), the student will be disciplined in accordance with the Student Code of Conduct and employees will be disciplined under the appropriate collective bargaining agreement, or, in the event of a management employee, as appropriate in accordance with Board of Governors Policy (Merit Principles).

**Counseling**

Upon request, counseling is available to any employee or student who believes that s/he has been subjected to any form of harassment or intimidation.

Current University students may contact Wellness Services:

<b>Edinboro Campus</b>	<b>Clarion Campus</b>	<b>California Campus</b>
Ghering Health and Wellness Counseling 814-732-2252 Student Health Services 814-732-2743	Becht Hall Counseling 814-393-2255 UPMC Health Services 814-393-2121	Carter Hall Counseling 724-938-4056 Student Health Center 724-938-4232

Current University employees may obtain counseling services through the State Employees Assistance Program (SEAP) at 800-692-7459.

### **Additional Rights**

Individuals are encouraged to use these complaint procedures but are not required to do so and may choose to pursue other civil and legal options.

This policy is not intended to and will not be applied in a way that would violate rights to academic freedom and freedom of expression, nor will it be interpreted in a way that undermines a supervisor's authority to appropriately manage their work unit. This definition reserves to the University, in furtherance of its educational mission, the right to address conduct that would not necessarily be unlawful. It is not intended to create individual or group rights, whether contractual or otherwise, that do not exist under law.

The procedures set forth in this policy are not intended to interfere with any legal rights under the statutes of the Commonwealth of Pennsylvania or the United States of America. In addition, it is not intended to interfere with any rights an employee may have under their appropriate collective bargaining agreement.

### **Training**

Employee training as to the contents of this policy shall occur annually. Additionally, new employees will be informed of this policy in New Employee Orientation within sixty (60) days of commencing employment and are required to participate in further training annually thereafter. Additionally, current University students shall be educated on this policy annually.

### **Dissemination of Policy**

This policy shall be disseminated to employees and students in a manner that makes the information readily accessible. The method of dissemination can include but not be limited to electronically, within employee and student handbooks, and/or via University website.

A current copy of this policy is posted to the online University Policy Manual. Hard copies of this policy may be obtained from the Associate Director of Social Equity and Title IX.

## **E. Related policies**

DE001 - Sex Discrimination and Sexual Misconduct Policy

DE002 - Non-Discrimination Policy

Student Code of Conduct

## **F. Contact Information**

<b>Edinboro Campus</b>	<b>Clarion Campus</b>	<b>California Campus</b>
Andrew Matt <a href="mailto:amatt@pennwest.edu">amatt@pennwest.edu</a> 213 Reeder Hall Edinboro Campus Police	Amy Salsgiver <a href="mailto:asalsgiver@pennwest.edu">asalsgiver@pennwest.edu</a> 423 Becht Hall Clarion Campus Police	Amy Salsgiver <a href="mailto:asalsgiver@pennwest.edu">asalsgiver@pennwest.edu</a> 423 Becht Hall California Campus Police

911 Scotland Road Edinboro, PA 16444 814-732-2921	945 Wood Street Clarion, PA 16214 814-393-2111	250 University Avenue Pollock Maintenance and Police Building California, PA 15419 724-392-5704
---	--	---

**G. Policy Review Schedule**

All policies will be reviewed every two years or on an as needed basis if a change in BOG, PASSHE or Pennsylvania law would create the need for an immediate change.

**Appendix A**  
**COMPLAINT FORM**

Complainant Name: (Last Name, First Name, MI)

Date:

Address:

City:

State:

Zip Code:

Check One: ☐ Student ☐ Employee

Telephone Number:

Specifics of complaint (describe below, including any dates of alleged discrimination.)

(Attach Additional Pages as Necessary)

If you wish, please describe any corrective action you would like to see taken with regards to possible discriminatory conduct.

(Attach Additional Pages as Necessary)

Signature of Complainant