HRM-009

Addressing Discrimination, Harassment, and Retaliation

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Contact Office Equal Opportunity and Civil Rights (Office for)

Advocacy and Opportunity (College at Wise) (Office for) Human Resources Department (College at Wise)

Oversight Executive
President of the University

Applies To Academic Division, the Medical Center, and the College at Wise.

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Reason for Policy

The University of Virginia, (University), is committed to ensuring all University programs and activities, including employment, educational, and extracurricular, are free of discrimination, harassment, and retaliation.

This policy is intended to protect members of the University community from discrimination, harassment, and retaliation and will be interpreted consistently with applicable federal and state laws. This policy is not intended to regulate protected speech and will be implemented in a manner that recognizes the importance of rights to freedom of speech and expression. Such rights, however, are not limitless and do not protect speech or expressive conduct that violates University policy or federal or state law.

Definition of Terms

DHR Conduct

Description

Discrimination, harassment, and/or retaliation committed by students or employees as these terms are defined in this policy.

Employee (7)

Description

Includes a full- and part-time faculty member, a University staff member, a UVA Medical Center staff member, a classified staff member, a professional research staff member, a wage employee, a temporary employee, or a student staff member when they are performing the duties of that role.

Protected Categories

Description

Age, color, disability, family medical or genetic information, gender expression, gender identity, marital status, military status (which includes active duty service members, reserve service members, and dependents), national/ethnic origin, political affiliation, pregnancy, race, religion, sex, sexual orientation, and veteran status.

Reporter

Description

Any person, including faculty, staff, students, and third parties, who discloses an incident of alleged prohibited conduct to the Title IX coordinator, deputy Title IX coordinator, or a responsible employee. Reporters may or may not be a complainant.

Respondent (2)

Description The individual or University-affiliated entity alleged to have committed DHR Conduct.

Student (1)

Description An individual registered or enrolled for credit- or non-credit-bearing coursework at the University.

Third Party (1)

Description

A contractor, vendor, visitor, guest, participant in a University program or activity, or other individuals, such as an applicant for admission or employment at the University.

University Property

Description

Land or buildings that the University owns or leases and that is under the control of the Board of Visitors. University property also includes premises the University uses for activities of its offices, departments, personnel, or students.

Complainant (1)

Description The individual who is alleged to have experienced DHR Conduct.

Policy Statement

The University prohibits discrimination or harassment based on one or more protected categories in the workplace, academic setting, or in its programs or activities and retaliation for engaging in protected activity under this policy. This policy is intended to be consistent with applicable federal and state laws and state and University policies.

All members of the University community are encouraged to take reasonable and appropriate actions to prevent, report, or stop discrimination, harassment, or retaliation. The University will support and assist community members who take such actions.

The University's Office for Equal Opportunity and Civil Rights (EOCR) is responsible for enforcing this policy on behalf of the University and maintains complaint procedures that offer options for informal and formal resolution. Direct questions about this policy to EOCR's Preventing and Addressing Discrimination, Harassment, and Retaliation (PADHR) team at (434) 924-3200 or PADHR@virginia.edu.

I. **Scope of Policy;**
   This policy applies to DHR Conduct committed against an individual who, at the time the alleged DHR Conduct occurred, was a student, employee, or third party.

   This policy applies to DHR Conduct alleged to be committed by a respondent when the conduct:
   - occurred on University property;
   - occurred in the context of University employment, education, or other program or activity, including, but not limited to, University-sponsored study abroad, research, online, or internship

programs;

- did not occur on University property or occurred outside the context of a University employment or education program or activity but had or has continuing effects on or creates a hostile environment for students, employees, or third parties while on University property or in any University employment or education program or activity; or
- occurred at the permanent or temporary local residence of a student, employee, or third party, or in the City of Charlottesville, Albemarle County, or the city or county of any University campus.

EOCR also has discretion to conduct an administrative review into allegations of DHR Conduct, unwelcome conduct based on one or more protected categories, or less favorable treatment based on one of more protected categories, in response to a report or formal complaint or in the absence of a formal complaint.

A. **Online Harassment and Misconduct:**
This policy is written and interpreted broadly to include online and cyber manifestations of any DHR Conduct. This applies when the DHR Conduct occurs within or has an effect on the University's education programs and activities, or through the use of the University's networks, technology, or equipment. While the University may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the University, it will engage in a variety of means to address and mitigate the effects.

Any online postings or other electronic communication by students occurring completely outside of the University's control (e.g., not on University networks, websites, or between University email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial disruption to University programs and activities. Speech by employees that occurs when the employee is not on University property, whether online or in person, may be regulated by the University only when such speech is made in an employee's official or work-related capacity.

B. **Exclusion of Sexual and Gender-based Harassment:**
This policy does not address sexual assault, dating, domestic or intimate partner violence, sexual exploitation, stalking, complicity, sexual harassment, or gender-based harassment which includes harassment based on gender identity or expression, pregnancy, and sexual orientation. Those categories of prohibited conduct are governed by HRM-041: Addressing Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence (Sexual Misconduct Policy), which provides reporting options and explains how the University assesses, investigates, and resolves reports of such prohibited conduct. Where reported conduct violates this policy and violates the Sexual Misconduct Policy, the University's response will be governed by the procedures referenced in the Sexual Misconduct Policy. Direct questions about whether this policy applies in a specific instance to the PADHR team.

II. **Conduct Prohibited under this Policy:**

A. **Discrimination:**
There are two types of discrimination prohibited by this policy: (1) disparate treatment; and (2) failure to provide reasonable accommodations.

1. **Disparate Treatment:**
Disparate (i.e., different) treatment discrimination is adverse treatment of an individual based on one or more of the protected categories unless such different treatment is permitted or required by law. Examples of disparate treatment include denial of an opportunity to

participate in or benefit from University services, programs, or activities; and actions that impact the terms, conditions, or benefits of an individual's education, employment, program/activity participation, or other aspects of their experience at the University.

Disparate treatment includes adverse treatment of an individual based upon their association or relationship with another individual due to that other individual's color, disability, national/ethnic origin, race, religion, or sex.

2. **Failure to Provide Reasonable Accommodations:**
   The failure to provide a reasonable accommodation for disability, pregnancy, or religion, or the failure to engage in the interactive process for disability, pregnancy, or religious accommodations upon receipt of sufficient notice that an individual is seeking such accommodation, constitutes a form of discrimination.

   "Reasonable accommodation for disability, pregnancy, or religion" is certain modifications or adjustments necessary to ensure an equal opportunity to access or participate in the University's programs and activities, and educational and employment opportunities, unless such modifications or adjustments would fundamentally alter the program or activity or would constitute an undue hardship.

B. **Harassment:**
There are two forms of harassment prohibited by this policy:

1. Quid pro quo harassment (i.e., this for that) is conduct where a respondent conditions the provision of an aid, benefit, or service on an individual's unwelcome conduct based on the applicable protected categories.

2. Hostile environment harassment is unwelcome conduct based on one or more protected categories which is sufficiently severe, persistent, or pervasive from both a subjective and objective perspective that it unreasonably interferes with the employment, academic, or program/activity environment or limits or deprives an individual from participating in or benefiting from educational programs and activities.

   A hostile environment can be created by persistent or pervasive conduct, or by a single or isolated incident, if sufficiently severe. The more severe the conduct is, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

C. **Retaliation:**
Retaliation is adverse action taken against an individual for engaging in protected activity. Adverse action is action that would discourage a reasonable person from engaging in protected activity.

Protected activity consists of: (1) complaining of or opposing conduct based on a reasonable good faith belief that the conduct constitutes discrimination, harassment, or retaliation as described in Section II.A and II.B; (2) assisting, testifying in, participating, or refusing to participate in any manner in an investigation, resolution process, or other proceeding related to a complaint of discrimination, harassment, or retaliation; and (3) requesting an accommodation for disability, pregnancy, or religion.

Retaliation that is alleged to have occurred in response to the first and second forms of protected activity may exist even if the underlying allegation(s) are not substantiated during an investigation.

Retaliation does not include good faith actions lawfully pursued in response to a report of DHR Conduct or the exercise of rights protected under the First Amendment.

III. **Resources:**

A. **Confidential Resources:**

The University offers a wide range of resources for students and employees, whether as complainants or respondents, to provide support and guidance throughout the reporting and/or resolution of DHR Conduct. These resources are also available even if an individual does not submit a report or complaint.

UVA confidential resources include:

- Counseling and Psychological Services (CAPS) (for students)
- Faculty and Employee Assistance Program
- UVA Women's Center (for students and employees of all gender identities)
- UVA Ombuds (for students and employees)

B. **Supportive Measures and Other Measures:**

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent before or after filing of a written complaint under the DHR complaint procedures or where no written complaint has been filed.

These measures may be designed to address an individual's safety and well-being and continued access to University programs and activities, including educational opportunities or employment, and/or may involve action against a complainant or respondent. Supportive measures, which may be temporary or permanent, may include no contact directives, residence modifications, academic modifications and support, and work schedule or work assignment modifications.

Supportive measures are available regardless of whether a complainant files a written complaint or the University commences an investigation under this policy. The University will maintain the privacy of any supportive measures provided under this policy to the extent practicable and will promptly address any violation of the supportive measures. EOCR has the discretion to impose and/or modify any supportive measures based on all available information and is available to meet with a complainant or respondent to address any concerns about the provision of supportive measures.

The University will provide reasonable supportive measures to third parties, as appropriate and available, taking into account the role of the third party and the nature of any contractual relationship with the University.

IV. **Reporting:**

The University encourages, and in some cases requires, reporting and there are multiple channels for reporting DHR Conduct. The University will support individuals who have experienced DHR Conduct (complainants) in understanding, assessing, and pursuing their options.

A. **Direct Reporting:**

A report may be made by any individual who believes that DHR Conduct may have occurred and

requires the University's response. The University urges students and employees who witnessed, experienced, or become aware of DHR Conduct to report the incident immediately to the University through the following reporting options by:

- Submitting a report through Just Report It, the University's online reporting website (this requires NetBadge access).
- Calling EOCR at (434) 924-3200 or emailing PADHR@virginia.edu.

Third parties or former students and employees who no longer have NetBadge access may report DHR Conduct by contacting EOCR by telephone or email.

A report is not considered a complaint under the procedures for resolution of DHR Conduct. Students, employees, and third parties who have experienced DHR Conduct and want to request resolution by EOCR under those procedures must also file a complaint using EOCR's online complaint form or submitting a written complaint (see Procedures). There is no time limit for reporting DHR Conduct, but individuals who would like to request that EOCR informally or formally resolve their concerns need to file a complaint within 300 calendar days absent good cause for not filing within this time frame.

B. **Anonymous Reporting;**
Although the University encourages individuals to share their information (including their identity) when reporting DHR Conduct, an individual may report anonymously by:

- Sending a letter by mail to UVA EOCR, PO Box 400219, Charlottesville, VA 22904.
- Calling EOCR at 434-924-3200 from a restricted or blocked number.
- Emailing PADHR@virginia.edu from an account without personally identifying information.
- Having a UVA student file a report on the individual's behalf via Just Report It (NetBadge is required to use Just Report It).

An anonymous report will be evaluated in the same manner as a report with an identified complainant. EOCR will determine whether further action is necessary to protect the health and safety of affected individuals and the University community. The University will respond to any report, including anonymous reports, with an initial assessment to determine available steps based on the nature and circumstances of any known information. The University may be limited in its ability to address anonymous reports if sufficient information is not provided in the report.

Responsible employees (as described in Section V.B) may not report anonymously unless they are reporting DHR Conduct that they personally experienced.

C. **Reporting to Law Enforcement:**
If alleged DHR Conduct constitutes a crime, the police have unique legal authority, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking Emergency Protective Orders. Although a police report may be made at any time, complainants should be aware that a one-year statute of limitations may apply to certain misdemeanors in Virginia.

While complainants have the right to notify or decline to notify law enforcement, to preserve options, the University encourages complainants to report DHR Conduct to local law enforcement by contacting:

- University Police (at (434) 924-7166 for non-emergencies)

- 911 (for emergencies)
- Albemarle County Police (at (434) 977-9041 for non-emergencies)
- City of Charlottesville Police (at (434) 970-3280 for non-emergencies)

The University will assist complainants in notifying law enforcement if they choose to do so.

D. **Privacy and Confidentiality:**
The University is committed to protecting the privacy of all individuals involved in the reporting, investigation, and resolution of a report under this policy; and to providing assistance to help students, employees, and third parties make informed choices. With respect to any report under this policy, the University will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the report and to take steps to eliminate DHR Conduct, prevent its recurrence, and remedy its effects.

The University does not impose any restrictions on the parties regarding re-disclosure of an incident or their participation in proceedings under this policy.

Privacy and confidentiality have distinct meanings under this policy.

- Privacy means that information related to a report of DHR Conduct will be shared with a limited number of University employees to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the University's response to reports of DHR Conduct and implementation of any aspect of this policy receive guidance about sharing and safeguarding private information.

  The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), as outlined in the University's FERPA Policy. The privacy of an individual's medical and related records generally is protected by the Health Insurance Portability and Accountability Act (HIPAA), excepting health records protected by FERPA and by Virginia's Health Records Privacy Act, Va. Code § 32.1-127.1:03. Access to an employee's personnel records may be restricted in accordance with the Virginia Freedom of Information Act, and, where applicable, Department of Human Resources Management (DHRM) Policy 6.05 Personnel Records Disclosure and DHRM Policy 6.10 Personnel Records Management.

- Confidentiality exists in the context of laws that protect certain relationships, including with medical and clinical care providers (and those who provide administrative services related to the provision of medical and clinical care), mental health providers, counselors, and ordained clergy, all of whom may engage in confidential communications under Virginia law. The University has designated individuals who are permitted to have privileged communications as "confidential employees" (see Section V.A) additional information is provided below). When an individual shares information with a confidential employee or a community professional with the same legal protections, the confidential employee (and/or such community professional) cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect

of a minor under the age of 18.

V. **Employee Reporting:**

University employees bear different responsibilities with respect to information that may be disclosed to them about alleged DHR Conduct or alleged conduct that falls under the Sexual Misconduct Policy.

University employees are designated as either "confidential employees" or "responsible employees" (see Section A and B below, respectively). Responsible employees are required to report DHR Conduct. Confidential employees are exempt from these reporting obligations. Employees designated as confidential may have reporting obligations when they receive information outside the scope of their confidential role. In such circumstances, the employee's reporting responsibilities will be determined by the capacity in which the information was received, rather than their designation as a confidential employee.

Employees who are uncertain whether they are required to report information disclosed to them about an incident of alleged DHR Conduct should consult with EOCR.

Complainants and reporters who are uncertain whether a particular University employee is a confidential employee should ask before disclosing information they wish to keep confidential.

A. **Confidential Employee:**

A confidential employee is

- Any University employee who is a licensed medical, clinical, or mental health, or other healthcare professional (e.g., physicians, nurses, physicians' assistants, psychologists, psychiatrists, professional counselors and social workers, and those performing services under their supervision - collectively, health care providers), when performing the duties of that professional role.
- Any University employee when performing administrative, operational and/or related support for such health care providers.
- Any University employee who is an athletic trainer working under the supervision of a licensed medical or healthcare professional when performing the duties of that professional role.
- Any employee in the Office of Well-Being Services, within Student Health and Wellness, who actively provides advocacy support, as well as staff who supervise trained advocates, when they are performing the responsibilities associated with that professional role. Employees serving in an ombuds role within the University Ombuds Office, and staff acting under their supervision, when performing the official duties of that Office.

1. **Limits of Confidentiality:**

Confidential employees are required to maintain the confidentiality of information shared with them about alleged DHR Conduct and will not disclose such information to EOCR or to anyone else, except with the written permission of the complainant or when such disclosures are permitted or required by applicable law or court order. For example, confidential employees may be required to disclose such information where there is a concern that the individual will likely cause serious physical harm to self or others or when the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18. Direct questions about how to interpret the validity of any permission given or the applicability or scope of any law or court order requiring disclosure to the Office of the University Counsel.

IMPORTANT: Complainants who disclose information to confidential employees should understand that, except in the limited circumstances described above, the information they have disclosed will not be shared with EOCR or anyone else and, therefore, the University will not be able to use such information to provide supportive measures, facilitate resolution, investigate the alleged DHR Conduct, or to pursue disciplinary action against the respondent.

2. **Supportive Measures:**
   Confidential employees may provide information to individuals where appropriate about how to obtain necessary health, including mental health, services and survivor advocacy services at the University and in the local community. Confidential employees should direct students and employees who wish to request supportive measures to EOCR (see Section III.B above).

B. **Responsible Employee:**
Responsible employees reporting requirements vary based on whether the disclosure of DHR Conduct involves students or employees.

- *Disclosures of Alleged DHR Conduct involving a Student:* A responsible employee is any employee who is not a confidential employee.
- *Disclosures of Alleged DHR Conduct involving only Employees:* A responsible employee is: (1) any employee who is not a confidential employee; and (2) is a supervisor, manager, or human resources professional.

Responsible employees also include teaching assistants, resident advisors, and all other student employees when disclosures are made to any of them when performing the duties of their employment/professional role.

1. **Reporting Requirements:**
   Responsible employees are required to promptly report all relevant details they receive about an incident of alleged DHR Conduct (including the names and all other information that personally identifies the reporter, the complainant, the respondent, any witness, and/or any other third party with knowledge of the reported incident) and any other relevant information (including the date, time, and specific location of the reported incident) to EOCR through Just Report It or directly to EOCR.
2. **Exemptions:**
   Disclosures made to responsible employees in the following circumstances are exempt from this reporting requirement:
   - **Public Awareness Events:** Disclosures made at awareness events (e.g. candlelight vigils, protests, "survivor speak outs" or other public forums in which students may disclose incidents of DHR Conduct).
   - **IRB Research:** Disclosures made during an individual's involvement as a participant in an Institutional Review Board-approved human participants research protocol.
   - **Academic Work:** Disclosures made during academic coursework, including classroom discussion, papers, or other assignments, unless the disclosure was made to obtain help related to the issue, academic accommodations, extensions, etc.

VI. **Training Requirement:**
The University is committed to the prevention of DHR Conduct through education and awareness programs and provides training to students and employees on this policy and the topics and issues related to maintaining an education and employment environment free from harassment, discrimination, and

retaliation. All students and employees are required to complete online training modules pertaining to the policy every two years or more frequently upon request.

The University offers options for customized training and education for members of the University community.

VII. **Obligation to Provide Truthful Information:**
All University community members are expected to provide truthful information in any report, complaint, or proceeding under this policy. Submitting or providing materially false statements in bad faith in connection with an incident of DHR Conduct is prohibited and subject to disciplinary sanctions for students under the University's Honor Code and disciplinary action under the appropriate employee disciplinary policy. EOCR may, at its discretion, report such statements to the University's Honor Committee. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

VIII. **Compliance with Policy:**
Failure to comply with the requirements of this policy may result in disciplinary action up to and including termination or expulsion in accordance with relevant University policies.

Direct questions about this policy to the Office for Equal Opportunity and Civil Rights, Office for Advocacy and Opportunity (College at Wise), or the Human Resources Department (College at Wise).

Procedures

EOCR's procedures for resolution of DHR Conduct provide a prompt and equitable response to complaints of DHR Conduct. The procedures explain the two options for resolution, which are informal resolution and formal resolution (investigation). For investigations, the preponderance of the evidence standard is applied when determining whether this policy has been violated. Preponderance of the evidence means that it is more likely than not that a policy violation occurred.

For resolving complaints of DHR Conduct committed by students or employees, refer to the PADHR Complaint Procedures.

To request resolution under the applicable procedures, an individual must submit a written complaint. A complaint may be filed with EOCR by any current or former employee, student, or a third-party who believes they have been subjected to DHR Conduct by an employee or student in violation of this policy. If the respondent would no longer be a student or an employee of the University prior to commencement of resolution or their affiliation changes during the resolution process, resolution may be limited or unavailable. However, the University, as appropriate, may provide reasonable supportive measures, assist the complainant in identifying other reporting options, and/or take reasonable steps to eliminate DHR Conduct, prevent its recurrence, and remedy its effects.

Complainants are encouraged to use the online DHR Complaint Form when submitting a formal complaint, as the form is intentionally structured to gather the information EOCR needs to evaluate the complaint. Complainants may also submit a written complaint that contains the information listed in the applicable complaint procedure. Complaints need to be filed within 300 calendar days of the alleged DHR Conduct. In very limited circumstances, EOCR retains discretion to accept complaints filed outside of the 300-day timeframe for good cause. EOCR may also consider alleged conduct outside of the 300-day period as background for timely filed allegations. Note that complainants and other reporting individuals may seek assistance and utilize available University resources for support services irrespective of the date(s) of the alleged DHR Conduct.

Related Information

HRM-041: Addressing Sexual and Gender-Based Harassment and Other Forms of Interpersonal Violence

Policy Background

This policy is established in accordance with federal and state laws, including but not limited to Titles VI and VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act of 1967, Title IX of the Education Amendments of 1972, Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, as amended, Virginia Human Rights Act, and Genetic Information Nondiscrimination Act of 2008, as well as state policy.

Major Category Human Resource Management

Next Scheduled Review Friday, August 24, 2029

Revision History

Combined HRM-009 and HRM-010 8/24/26; Confirmed 9/2/25; Updated Contact Office 2/18/25; Updated Policy Statement 9/7/21; Added Compliance section 7/20/21; Updated 11/10/20, 9/3/19; Added contact offices 1/17/19; Updated definition 9/3/15; Updated 10/22/14, 8/29/11; 1/6/11; Consolidates provisions of the University's existing Non-Discrimination Policy (revised and approved October 25, 2001, November 14, 2002), Equal Employment Opportunity Policy (date unknown) and Policy on Discriminatory Harassment (revised as of 2003).

Supercedes Policy Text

HRM-009: Preventing and Addressing Discrimination and Harassment, HRM-010: Preventing and Addressing Retaliation; Policy on Discriminatory Harassment revised as of 2003.

Approved By Policy Review Committee

Approved Date Tuesday, April 8, 2008