

## **Administrative Regulation — Equal Dignity (interim)**

### **I. Members of the University Community Have Equal Dignity**

As set out in *Governing Regulation I — Declaration of Principles*, the University follows both the federal and state Constitutions as well as applicable federal and state laws on nondiscrimination. Further details are set out in policies found within the Office of Equal Opportunity.

The University provides equal opportunities for qualified persons in all aspects of institutional operations and does not discriminate on the basis of race, color, national origin, ethnic origin, religion, creed, age, physical or mental disability, veteran status, uniformed service, political belief, sex, sexual orientation, gender identity, gender expression, pregnancy, marital status, genetic information, social or economic status or whether the person is a smoker or nonsmoker, as long as the person complies with University regulation concerning smoking.

### **II. Members of the University Community Must Refrain from Discrimination**

#### **A. Definition of Discrimination**

Discrimination is an action or a behavior that results in negative or different treatment of an individual based on a protected characteristic specified in Article I of this *Administrative Regulation*. <https://regs.uky.edu/administrative-regulation>

One form of discrimination is harassment. The University's definition of harassment is the definition adopted by the Supreme Court of the United States.<sup>1</sup> Specifically, harassment is behavior that is "so severe, pervasive, and objectively offensive, and that so undermines and detracts from the victims' educational [or employment] experience, that the [victims] are effectively denied equal access to an institution's resources and opportunities."<sup>2</sup> In some contexts, federal law or federal regulations may require the University to use a broader definition of harassment. However, regardless of definition, harassment does not include expression protected by the First Amendment.

The University prohibits harassment based on a protected characteristic specified in Article I of this *Administrative Regulation*.

#### **B. Application**

This *Administrative Regulation* applies to all members of the University community.

#### **C. Expectations**

The University will refrain from discrimination based on a protected characteristic specified in Article I of this *Administrative Regulation*. However, in some instances, registered student organizations may be selective based on viewpoint, religious belief or the organization's focus.

All members of the University community and those outside the University community who are participating in its programs, services or activities are expected to maintain an environment free of discrimination as detailed in Article I of this *Administrative Regulation*.

### **III. Investigation of Complaints of Discrimination**

#### **A. Initiation of a Complaint**

Any member of the University community may initiate a complaint of discrimination by contacting the University's [Office of Equal Opportunity](#). The Office of Equal Opportunity will establish processes for the investigation, resolution and adjudication of complaints.

#### **B. Mandatory Reporters**

Except for employees who have received an explicit written exemption, University employees are mandatory reporters. This means that if an employee is told about or observes conduct that might be considered discrimination, then the employee must report the incident to the [Office of Equal Opportunity](#) as soon as reasonably possible.

In making such reports, employees must provide known information to the Office of Equal Opportunity. Employees cannot promise confidentiality to the complainant or potential witnesses. Employees should not attempt to investigate before reporting the incident to the Office of Equal Opportunity.

Failure to report may result in disciplinary action against the employee as set out in *Administrative Regulation — Employee Code*.

#### **C. Retaliation Prohibited**

Retaliation occurs when an adverse action is taken against an individual because of their engagement or lack thereof in the investigation, resolution or adjudication of a complaint of discrimination. Neither the University nor any employee, student or authorized volunteer may intimidate, threaten, coerce or discriminate against any individual who participates or chooses not to participate in the investigation, resolution or adjudication of a complaint of discrimination. This prohibition on retaliation covers not just complainants and respondents but also witnesses and reporters.

#### **D. Withdrawal or Resignation During a Pending Investigation**

Any student who withdraws while under investigation is ineligible for readmission. Any employee who resigns while under investigation is ineligible for rehire.

#### **IV. Due Process for Respondents**

If, after investigation, the Office of Equal Opportunity concludes there is no violation, then the matter is closed.

If, after investigation, the Office of Equal Opportunity concludes there is a violation, then the Office of Equal Opportunity will assess the severity of the conduct.

In instances where the alleged conduct merits a due process hearing, due process will be provided as described in *Administrative Regulation — Due Process* and the appropriate hearing policy.

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<sup>1</sup> *Davis Next Friend LaShonda D. v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 651, (1999).

<sup>2</sup> *Id.*