

# OBERLIN COLLEGE POLICY ON DISCRIMINATION AND HARASSMENT

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\*Adopted by the General Faculty on April 28, 1993; amended May 18, 1999; May 19, 2010  
v. August 2011; January 2015.

## Table Of Contents

A. Policy Statement .....	1
B. Definitions .....	2
C. Grievance Procedures for Complaints of Discrimination and Harassment .....	2
1. Notice .....	2
2. Applicability .....	2
3. Intake of Complaints, Informal Resolution Process, and Complaint Administration.....	2
D. Review of the Policy .....	7

## Oberlin College Policy on Discrimination and Harassment

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As of its effective date, January 13, 2015, this Policy on Discrimination and Harassment (the policy) incorporates and supersedes all other policies, procedures, and statements on discrimination and harassment previously adopted or issued by Oberlin College and/or its faculty, students, or employees. v. January 2015.

### A. Policy Statement

Oberlin College is committed to creating an institutional environment free from discrimination and harassment for students and employees. Thus, discrimination and harassment based on the following categories are prohibited: race, color, sex, marital status, religion, creed, national origin, disability, age, military or veteran status, sexual orientation, family relationship to an employee of Oberlin College, and gender identity and expression.

In addition, should any applicable law be enacted in the future prohibiting discrimination and/or harassment based on a category not listed above, or should there be other changes in the applicable law governing discrimination and/or harassment, this Policy will be deemed amended to the extent necessary to reflect such changes.

Oberlin College deplors incidents of discrimination or harassment wherever they may occur—for example between students, between employees, and between students and employees. The college is especially mindful of its obligation to seek learning opportunities for its students. Discrimination or harassment, whether overt or covert, may directly or indirectly have a negative impact on students' abilities to learn. Discrimination not only may have undesirable educational and psychological consequences; it is also against the law. Perpetrators of such behavior can be subject to College adjudication processes, including disciplinary action up to and including termination, suspension, and expulsion as appropriate. The community is further advised that recourse can be sought through the Equal Employment Opportunity Commission (EEOC), the Office of Civil Rights (OCR), the Ohio Commission on Civil Rights, or the courts. This policy does not limit the rights of an individual to seek remedies available under state or federal law.

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<sup>1</sup> In affirming the prohibition against discrimination and harassment on these bases, Oberlin College also affirms its compliance with applicable laws. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex, or national origin, and the Age Discrimination in Employment Act of 1967 prohibits employment discrimination based on age against individuals who are 40 years of age or older. Other federal laws prohibit discrimination against individuals in programs or activities that receive federal financial assistance. These laws prohibit discrimination on the basis of race, color, or national origin (Title VI of the Civil Rights Act of 1964), sex (Title IX of the Education Amendments of 1972), disability (Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990), and age (Age Discrimination Act of 1975). In addition, Chapter 4112 of the Ohio Revised Code prohibits discrimination in various contexts based on race, color, religion, sex, military status, national origin, disability, age, or ancestry. Likewise, Section 1185.02 of the Codified Ordinances of Oberlin prohibits discrimination in housing based on race, color, religion, sex, sexual orientation, ancestry, handicap, familial status, or national origin of any prospective owner, occupant or user of the housing.

## **B. Definitions**

Harassment is unwelcome speech or conduct (e.g., physical, oral, graphic, or written) related to one or more of the categories listed above that is sufficiently severe, persistent or pervasive so as to (a) interfere substantially with a person's work or education or (b) create an environment that a reasonable person would find hostile, offensive, or intimidating.

Discrimination is any decision, act, or failure to act that substantially interferes with a person's work or education when such decision, act, or failure to act is based on the categories listed above. Discrimination also includes retaliation: retaliation is any decision, act, or failure to act that substantially interferes with a person's work or education when such decision, act, or failure to act is based on that person's opposition to discrimination or that person's participation in a process aimed at addressing an allegation of discrimination. Further, the college does not discriminate in admission or access to, or treatment or employment in, any college program or activity.

In particular, Oberlin College affirms that no qualified person with a disability shall, on the basis of that disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any college program or activity. A person with a disability is any person who has a physical or mental impairment substantially limiting one or more major life activities, has a record of having such an impairment, or is regarded as having such an impairment.

## **C. Grievance Procedures for Complaints of Discrimination and Harassment**

### **1. Notice.**

Notice of this policy, including notice of the college's prohibition against discrimination and the procedures for filing complaints of discrimination and harassment, shall be provided as follows to students, employees, and third parties:

(a) The policy shall be placed on the college's website in multiple locations, including the web pages of the Office of Equity Concerns, the Office of Disability Services, and the Office of the Vice President, General Counsel and Secretary.

(b) The policy shall be provided to all new employees and incoming students.

(c) Changes in the policy shall be promptly reflected on the college's website, and announcements of the changes shall issue through electronic bulletins and annual hard-copy updates to employees and students.

(d) Notice of the college's prohibition against discrimination and the names and contact information of the compliance coordinators and other administrators named in this policy shall be placed in all materials relating to recruitment of students and employees.

### **2. Applicability.**

The grievance procedures provided in this policy shall apply to complaints alleging discrimination and harassment carried out by employees, students, and/or third parties.

### **3. Intake of Complaints, Informal Resolution Process, and Complaint Administration.**

All complaints of discrimination and harassment should be filed in writing with Rebecca Mosely, the Director of Equity, Diversity, and Inclusion by e-mail to [Rebecca.mosely@oberlin.edu](mailto:Rebecca.mosely@oberlin.edu) or by U.S. mail addressed to Rebecca Mosely, Director of Equity Diversity and Inclusion, Carnegie Building, Room 204, 52 W. Lorain St. Street, Oberlin, OH 44074, (440) 775-8555. As

noted below in c. and d., complaints alleging discrimination or harassment based on disability, race, color, religion, creed, national origin, age, military or veteran status, and family relationship to an employee of Oberlin College may also be filed directly with the appropriate administrator designated to address such complaints, and the Director of Equity, Diversity, and Inclusion shall coordinate recordkeeping regarding such complaints. All complaints shall be treated as filed as of the date they are received. Complaints must be filed within one calendar year of the date of the last act of discrimination.

Following filing, complaints shall be processed as follows. In determining which set of procedures shall apply to a complaint alleging multiple types of discrimination and/or harassment, the Director of Equity, Diversity, and Inclusion shall consult with the Vice President, General Counsel and Secretary to reach a determination and shall communicate that determination to the complainant in writing within five business days.

In advance of filing a complaint, any student or employee of the college may elect to consult with the Director of Equity, Diversity, and Inclusion or any other administrator named in the policy to seek additional information about the policy and the grievance procedures. Such consultation is not a prerequisite for filing a complaint.

An informal resolution process, such as mediation, with the appropriate involvement of designated administrators is available for all complaints, with the exception of complaints alleging sexual assault. Voluntary mediation shall not be used to resolve complaints alleging sexual assault.<sup>2</sup>

All time frames provided in this policy shall constitute the time frames within which the policy normally shall be implemented, and shall apply to days on which the college is in session. The college is in session from the first day of enrollment until the last day of the spring term, except for official college holidays, spring and fall breaks, winter shut down, and winter term. During all other times, the college shall ensure the reasonably prompt intake, processing, and resolution of complaints.

Any individual who is designated or requested to respond to a complaint of discrimination or harassment under this policy must immediately recuse himself or herself upon becoming aware of any reason for which he or she cannot conduct an adequate, reliable, and impartial investigation, including but not limited to a conflict of interest concerning the complainant, respondent, or any other person involved in the complaint.

(a) *Allegations of discrimination or harassment based on sex, marital status, sexual orientation, and/or gender identity and expression.* The college has designated a Title IX Coordinator to coordinate the college's efforts to comply with and carry out its responsibilities under Title IX of the Education Amendments of 1972, including the investigation of allegations of discrimination or harassment based on sex as well as such allegations of discrimination based on marital status, sexual orientation, and/or gender identity and expression. The name and contact information of the Title IX Coordinator are as follows: Rebecca Mosely, Carnegie Building, Room 204, 52 W. Lorain Street, Oberlin OH

<sup>2</sup> This description of the availability of voluntary informal mechanisms to resolve discrimination and harassment complaints is consistent with the April 4, 2011, "Dear Colleague Letter" on sexual violence and the April 29, 2014 "Questions and Answers on Title IX and Sexual Violence" issued by the U.S. Department of Education, Office of Civil Rights.

44074-1090; 440-775-8555; [rebecca.mosely@oberlin.edu](mailto:rebecca.mosely@oberlin.edu).

These allegations shall be investigated and resolved pursuant to the standards and time frames provided in the Sexual Misconduct Policy at <http://new.oberlin.edu/office/equity-concerns/sexual-misconduct-policy/>. Please see below for the process that shall apply to allegations of discrimination in the college's athletics program.

*Allegations of discrimination based on sex in athletics.* Within five business days of filing, the Director of Equity, Diversity and Inclusion, serving as the Title IX Coordinator, shall send written notice of receipt of the complaint to the complainant and shall notify the Athletics Equity Coordinator of the complaint. The Athletics Equity Coordinator shall be an administrator in the athletics department designated by the Director of Athletics and Physical Education to implement grievance procedures regarding allegations of discrimination based on sex in athletics, in consultation with the Special to the President for Equity, Diversity, and Inclusion.

In advance of filing a complaint, and in addition to the informational/informal resolution processes described above, any student or employee may elect to seek an informal resolution of his or her concerns by consulting with the Athletics Equity Coordinator. In the case of a varsity sports participant, such informal resolution may include consultation with his or her coach. Such consultation or informal resolution is not a prerequisite for filing a complaint.

The name and contact information of the Title IX Coordinator are as follows: Rebecca Mosely; Carnegie Building, Room 204, 52 W. Lorain Street, Oberlin, OH 44074; 440-775-8555; [rebecca.mosely@oberlin.edu](mailto:rebecca.mosely@oberlin.edu). The name and contact information of the Athletics Equity Coordinator are as follows: Erica Rau; Phillips Gym, Room 102, 200 Woodland Street, Oberlin, OH 44074; 440-775-8505; [Erica.rau@oberlin.edu](mailto:Erica.rau@oberlin.edu)

The Title IX Coordinator shall subsequently take the following steps to investigate the complaint. At all times, the Title IX Coordinator shall advise each person involved in the investigation that he or she is to keep the matter confidential.

- i. The Title IX Coordinator shall interview the complainant and the person against whom the complaint has been filed (the respondent).
- ii. The Title IX Coordinator shall provide both the complainant and the respondent with the opportunity to identify relevant witnesses and evidence. With the assistance as necessary of the Athletics Equity Coordinator, the Title IX Coordinator shall interview any such witnesses and review any such evidence.
- iii. The Title IX Coordinator shall consult with the Athletics Department and the Office of the Dean of Students, as well as any other appropriate offices.
- iv. Based on the information presented, the Title IX Coordinator shall identify any additional relevant sources of information. With the assistance as necessary of the Athletics Equity Coordinator, the Title IX Coordinator shall examine these sources of information.
- v. Within 45 days of receipt of a complaint, the Title IX Coordinator shall issue a report and recommendation containing a) a determination whether the preponderance of the evidence supports the allegation(s), with a description of the investigation as necessary; b) a recommendation for appropriate action. This report and recommendation shall be provided to the President or his or her designee.

If the report states a determination that the preponderance of the evidence supports the allegation(s), the President or his or her designee shall render a decision on appropriate action, including but not limited to disciplinary action, after discussions with the Athletics Department and/or the Office of the Dean of Students, within 10 days of receipt of the report. If relevant to an assessment of potential disciplinary action, the President or his or her designee may consider the total institutional record of the respondent. Written notification of the decision of the President or designee shall issue to the complainant, the respondent, and the Title IX Coordinator. The notification shall include a description of any steps the college shall take to prevent the recurrence of any discrimination or harassment and to correct discriminatory effects on the complainant and others, if appropriate.

The respondent, complainant, or Title IX Coordinator may present written arguments to the President or his or her designee appealing the decision of the President or designee within five days of the issuance of the decision. The President or his or her designee will have five days from receipt of such written arguments to act.

(b) *Allegations of discrimination or harassment based on disability.* The college has designated a Section 504/ADA Coordinator to coordinate the College's efforts to comply with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Within five business days of filing, the Director of Equity, Diversity, and Inclusion shall forward allegations of discrimination or harassment based on disability to the Section 504/ADA Coordinator. Allegations of discrimination or harassment based on disability may also be filed in writing directly with the Section 504/ADA Coordinator. Within five business days of receipt of a complaint, the Section 504/ADA Coordinator shall send written notice of receipt of the complaint to the complainant. The name and contact information of the Section 504/ADA Coordinator are as follows: Rebecca Mosely, Carnegie Building, Room 204, 52 W. Lorain St., Oberlin, OH 44074; (440)775-8555; [rebecca.mosely@oberlin.edu](mailto:rebecca.mosely@oberlin.edu). The Deputy Section 504/ADA Coordinator is Shozo Kawaguchi, Wilder Hall, Room 105, 135 W. Lorain St. Oberlin, OH 44074; (440)775-8462; [shozo.kawaguchi@oberlin.edu](mailto:shozo.kawaguchi@oberlin.edu).

The Section 504/ADA Coordinator shall subsequently take the following steps to investigate the complaint. At all times, the Section 504/ADA Coordinator shall advise each person involved in the investigation that he or she is to keep the matter confidential.

- i. The Section 504/ADA Coordinator shall interview the complainant and the person against whom the complaint has been filed (the respondent).
- ii. The Section 504/ADA Coordinator shall provide both the complainant and the respondent with the opportunity to identify relevant witnesses and evidence. With the assistance as necessary of the Equity and Diversity Committee, the Section 504/ADA Coordinator shall interview any such witnesses and review any such evidence.
- iii. The Section 504/ADA Coordinator shall consult with appropriate offices depending on the constituencies represented in the complaint. If the complaint involves a student, the Section 504/ADA Coordinator shall consult with the Office of the Dean of Students and, as appropriate, with the Office of Disability Services. If the complaint involves a faculty member, the Section 504/ADA Coordinator shall consult with the appropriate divisional dean's office. If the complaint involves a staff member, the Section 504/ADA Coordinator shall consult with the Manager of Employee and Labor Relations.
- iv. Based on the information presented, the Section 504/ADA Coordinator shall identify any additional relevant sources of information. With the assistance as necessary of the Equity and Diversity Committee, the Section 504/ADA Coordinator shall examine these sources of information.

v. Within 45 days of receipt of a complaint, the Section 504/ADA Coordinator shall issue a report and recommendation containing a) a determination whether the preponderance of the evidence supports the allegation(s), with a description of the investigation as necessary; b) a recommendation for appropriate action. This report and recommendation shall be provided to the President or his or her designee.

If the report states a determination that the preponderance of the evidence supports the allegation(s), the President or his or her designee shall render a decision on appropriate action, including but not limited to disciplinary action, after discussions with the Office of Disability Services, the Office of the Dean of Students, the appropriate divisional dean's office, and/or the Manager of Employee and Labor Relations, considering the constituency of the respondent, within 10 days of receipt of the report. This decision may consider the total institutional record of the respondent. Written notification of the decision of the President or designee shall issue to the complainant, the respondent, and the Section 504/ADA Coordinator. The notification shall include a description of any steps the College shall take to prevent the recurrence of any discrimination or harassment and to correct discriminatory effects on the complainant and others, if appropriate.

The respondent, complainant, or Section 504/ADA Coordinator may present written arguments to the President or his or her designee appealing the decision of the President or designee within five days of the issuance of the decision. The President or his or her designee will have five days from receipt of such written arguments to act.

*(c) Allegations of discrimination or harassment based on race, color, religion, creed, national origin, age, military or veteran status, and family relationship to an employee of Oberlin College.* Within five business days of filing, the Director of Equity, Diversity, and Inclusion shall designate a committee of three members of the Equity and Diversity Committee to investigate the complaint. At all times, this investigation committee shall advise each person involved in the investigation that he or she is to keep the matter confidential.

The investigation committee is free to conduct any task related to the investigation as a group or to delegate tasks to individual members. Thus, all references below to the investigation committee denote the individual or group conducting any particular task.

- i. The investigation committee shall interview the complainant and the person against whom the complaint has been filed (the respondent).
- ii. The investigation committee shall provide both the complainant and the respondent with the opportunity to identify relevant witnesses and evidence. The investigation committee shall interview any such witnesses and review any such evidence.

The investigation committee shall consult with appropriate offices depending on the constituencies represented in the complaint. If the complaint involves a student, the investigation committee shall consult with the Office of the Dean of Students. If the complaint involves a faculty member, the investigation committee shall consult with the appropriate divisional dean's office. If the complaint involves a staff member, the investigation committee shall consult with the Manager of Employee and Labor Relations.

- iii. Based on the information presented, the investigation committee shall identify any additional relevant sources of information. The investigation committee shall examine these sources of information.



iv. Within 45 days of receipt of a complaint, the investigation committee shall issue a report and recommendation containing a) a determination whether the preponderance of the evidence supports the allegation(s), with a description of the investigation as necessary; b) a recommendation for appropriate action. This report and recommendation shall be provided to the President or his or her designee and to the Director of Equity, Diversity, and Inclusion.

If the report states a determination that the preponderance of the evidence supports the allegation(s), the President or his or her designee shall render a decision on appropriate action, including but not limited to disciplinary action, after discussions with the Office of the Dean of Students, the appropriate divisional dean's office, and/or the Manager of Employee and Labor Relations, considering the constituency of the respondent, within 10 days of receipt of the report. This decision may consider the total institutional record of the respondent. Written notification of the decision of the President or designee shall issue to the complainant, the respondent, and the Director of Equity, Diversity, and Inclusion. The notification shall include a description of any steps the college shall take to prevent the recurrence of any discrimination or harassment and to correct discriminatory effects on the complainant and others, if appropriate.

The respondent or complainant may present written arguments to the President or his or her designee appealing the decision of the President or designee within five days of the issuance of the decision. The President or his or her designee will have five days from receipt of such written arguments to act.

#### **D. Review of the Policy.**

At least every second year, the Equity and Diversity Committee shall undertake a review of the policy, the implementation of the policy, and education about the policy in consultation with the administrators designated in the Policy, and, if necessary, will recommend revisions to the Vice President, General Counsel and Secretary. In addition, the Director of Equity, Diversity, and Inclusion, the Title IX Coordinator and Section 504/ADA Coordinator shall conduct regular meetings to coordinate complaint processing and to develop and implement a protocol for maintaining and reporting data on complaint resolutions.