NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY

Mercer University ("the University") is committed to maintaining a fair and respectful environment for living, work and study. To that end, and in accordance with federal, state and local law and the University’s Equal Employment Opportunity and Affirmative Action Policy, the University prohibits harassment of or discrimination against any person because of race, color, national or ethnic origin, disability, marital status, veteran status, sex (including pregnancy, child birth or a medical condition related to pregnancy or childbirth), sexual orientation, gender identity, gender expression, genetic information, age, or religion (except in limited circumstances where religious preference is permitted by law), or any other protected status or characteristic as defined by law.

Incidents of unlawful harassment and discrimination will be met with appropriate disciplinary action, up to and including dismissal or expulsion from the University. The University will follow the Sexual Misconduct Policy (Title IX Policy) found at https://titleix.mercer.edu/upload/SMRV-Policy.pdf. All allegations of discrimination and harassment not covered by the University’s Sexual Misconduct Policy, based on the protected categories outlined above, will be handled pursuant to this policy.

Definitions:

Members of the University Community:

“Members of the University Community” are any persons employed by, or affiliated with, the University in any way and persons participating in any University program or activity, including, but not limited to:

(1) University faculty, staff, administrators, employees, and contractors of the University;
(2) University students;
(3) Volunteers and participants in any University program or activity; and
(4) Guests and visitors to campus, to any property owned or leased by the University, or to any property owned or leased by any University-affiliated organization or group.

Discrimination:

“Discrimination” is defined as disparate treatment or unfavorable conduct directed at an individual based on any status or characteristic identified in this policy or as defined and protected by applicable law.
Discriminatory Harassment:

“Discriminatory harassment” is defined as unwelcome verbal, written or physical conduct based on any status or characteristic outlined in this policy, which a reasonable person would consider intimidating, hostile or abusive. Discriminatory harassment may include slurs, taunts in the guise of jokes, disparaging references to others, use of epithets, stereotypes, comments, gestures, threats, graffiti, display or circulation of written or visual materials, taunts on manner of speech, and negative reference to customs when such conduct is based on or motivated by any status or characteristic identified in this policy or as defined and protected by applicable law.

Reporting:

A. Members of the University Community who wish to report discrimination or harassment by a Mercer student should contact the Title IX Coordinator or the Vice President for Student Affairs. Reports not covered by the Sexual Misconduct Policy (Title IX), will be handled in accordance with Mercer University’s Student Code of Conduct. Mercer University’s Student Code of Conduct sets forth expectations for student conduct and the disciplinary procedures for student misconduct. Students who violate this Non-Discrimination and Anti-Harassment Policy will be disciplined according to the procedures set forth in Mercer University’s Student Code of Conduct.

B. Members of the University Community who wish to report discrimination or harassment by another Member of the University Community (non-student) should contact the Title IX Coordinator or the Associate Vice President for Human Resources. Reports not covered by the Sexual Misconduct Policy (Title IX), will be handled in accordance with the following procedure.

All circumstances will be considered to determine which grievance procedure will be used to address the report/complaint. In most cases, the procedure used will be in accordance with the employment status of the respondent, but exceptions may be made after consultation by the Title IX Coordinator and the Associate Vice President for Human Resources.

Upon receipt of a complaint of discrimination or harassment by a University employee or contractor, the Associate Vice President for Human Resources will discuss the matter with the complainant and determine if the matter will be handled informally or formally through the process outlined below.

Informal Process

Use of the informal process is an opportunity to bring resolution to a complaint through awareness, education, and/or a facilitated discussion. During an informal process, the Associate Vice President for Human Resources may request a written statement from the complainant outlining the nature of the complaint. In addition, the Associate Vice President for Human Resources may meet with the complainant, the responding employee, the responding employee's supervisor and/or with the next level supervisor(s), as deemed appropriate, in an attempt to resolve the matter informally. In
the informal process, fact-finding occurs to the extent necessary to resolve the conflict and protect the interest of the parties and the University Community, but the Associate Vice President for Human Resources does not decide as to whether the policy has been violated. The complainant or respondent always has the option to end the informal process and request a formal process.

- Informal resolutions may include, but are not limited to:
  - Training;
  - Changes to work/classroom/campus arrangements;
  - Informal discussion with person(s) whose conduct, if not stopped, could rise to the level of discrimination or harassment;
  - Advisory discussion with the respondent’s supervisor, and
  - No contact directive to one or more of the parties.

Formal Process

If the informal process does not resolve the complaint, the informal process does not apply (e.g. complaints of sexual misconduct not covered by Title IX), or the complainant or respondent does not wish to resolve the issue informally, the following formal grievance procedures will be implemented for faculty members and employees.

1. **Written Complaint and Response**
   The employee shall submit a written complaint to the Associate Vice President for Human Resources. The written complaint shall identify the complainant and the respondent, state on what basis they have been harassed or discriminated, the specific behaviors and/or actions they believe to be harassing or discriminatory and the desired remedy. The respondent will generally be the individual responsible for the action that is the subject of the complaint. In questionable cases, the Associate Vice President for Human Resources will designate the respondent. Upon receipt of the complaint, the Associate Vice President for Human Resources shall promptly notify the respondent and the appropriate Dean, Director and/or other unit head and provide them a copy of the written complaint. Within 30 calendar days of receipt of a copy of the written complaint, the respondent should submit to the Associate Vice President for Human Resources a written response to the complaint. If the respondent chooses not to submit a written response to the allegations, the investigator(s) will proceed with the investigation.

2. **Investigation**
   Within 30 calendar days of receipt of the respondent’s written response or 30 calendar days of the respondent’s deadline if they choose to not submit a response, unless the complainant withdraws the complaint, the Associate Vice President for Human Resources, or their designee, will begin a formal investigation. The investigator(s) will then:

   - Inform complainant and respondent of their right to be interviewed and provide evidence;
   - Obtain information and evidence, including the identity of any witnesses, from the complainant and the respondent;
• Attempt to obtain information from the identified witnesses;
• Ask questions deemed relevant by the investigator(s);
• Collect and maintain appropriate documentation of the investigation;
• Disclose appropriate information to others only on a need-to-know basis consistent with state and federal law;
• Keep the appropriate supervisors/administrators/faculty informed of the status of the complaint and investigation, and seek input from them as appropriate when implementing any resolution or discipline.
• Compile a written investigative report for use by the Associate Vice President for Human Resources in determining appropriate resolution and sanctions.
• A copy of the investigative report will be made available to both the complainant and the respondent and they will be given ten calendar days to provide any corrections and/or additions. The Associate Vice President for Human Resources will determine the relevance of any additions or corrections received.

3. Resolution and Sanctions
Within 30 calendar days of receipt of the investigative report and any subsequent relevant corrections or additions provided by the parties, the Associate Vice President for Human Resources will make a determination or will advise the parties of the additional estimated amount of time needed for the investigation. In making this determination, the burden of proof that adequate cause exists for disciplinary action, up to and including termination, rests with the institution and shall be satisfied only by clear and convincing evidence in the record considered as a whole.

Once a determination has been made, the Associate Vice President for Human Resources will notify the complainant and respondent, in writing, of the results of the investigation, and any associated remedies, discipline and/or sanctions. The written decision will be disclosed only to the complainant, respondent, and University officials as appropriate to determine and enforce any remedial actions, discipline or sanctions, and to prepare for any appeals. Complainants are encouraged to report any reoccurrences of conduct that were found to violate University policy, as well as to report any retaliation for the complaint or related investigation. Remedial and preventative measures may be imposed by the Associate Vice President for Human Resources even in the absence of a violation of this policy if conduct is found to occur that may, if not addressed, rise to the level of a violation.

4. Appeals
All parties shall have the right to appeal the outcome of the formal process and decision to the Executive Vice President for Administration and Finance pursuant to this policy. The Executive Vice President for Administration and Finance must receive a written appeal within ten (10) calendar days after the receipt of the written notification of the decision being appealed. All materials that the employee wishes to include in support of their appeal must be turned in at the same time as the notice of appeal to the Executive Vice President for Administration and Finance. In addition, the appeal must identify one or more of the following factors upon which the appeal is based:
• Procedural irregularity that affected the outcome of the matter;
• New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or
• The Associate Vice President for Human Resources, or assigned Investigator(s), had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

The Executive Vice President for Administration and Finance or his/her designee will notify the non-appealing party of the appeal and provide that party ten (10) calendar days to respond in writing. The Executive Vice President for Finance and Administration or his/her designee may request additional information if he/she believes such information would aid in the appeal.

The Executive Vice President for Administration and Finance or his/her designee may:

• Affirm the original finding and sanction;
• Affirm the original finding but issue a new sanction of greater or lesser severity;
• Remand the case back to the Associate Vice President for Human Resources to correct a procedural or factual defect; or
• Reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand.

A decision by the Executive Vice President for Administration and Finance or his/her designee will be made within a reasonable time and the Associate Vice President for Human Resources, the complainant, and the respondent will be notified in writing of the decision on the appeal. The decision of the Executive Vice President for Administration and Finance or his/her designee is final. If an appeal is not filed within the appeal period, the findings become final and are not subject to any review.

Mercer Community members may raise concerns and make reports without fear of retaliation.