

**Regent Policy Document 14-6 (formerly 88-12)**

# Discrimination, Harassment, and Retaliation

## Scope

This policy applies to all areas of the UW System programs, activities, employment practices and operations, including the conduct of all students and employees that arises out of their employment, educational or academic status, as well as to the conduct of all guests, visitors, vendors, contractors, subcontractors and others who do business with the UW System or individual UW institutions.

## Purpose

The purposes of this policy are to: express the Board of Regents' commitment to providing an environment free of discrimination, harassment, and retaliation; codify in Board of Regents policy the statutory prohibitions against discriminatory conduct; and assign oversight responsibility.

## Policy Statement

It is the policy of the Board of Regents that the University of Wisconsin System maintain an academic and work environment free of discrimination, discriminatory harassment, or retaliation for all students and employees. Discrimination is inconsistent with the efforts of the University of Wisconsin System to foster an environment of respect for the dignity and worth of all members of the university community and to eliminate all manifestations of discrimination within the university. The Board is also committed to the protection of individual rights under the First Amendment (and related principles of academic freedom) and to preserving the widest possible dialogue within its educational environment.

Discrimination or discriminatory harassment that are based upon an individual's characteristics as protected under state law or federal law ("protected status") or university policy are prohibited. Harassment is a form of discrimination and is prohibited. In addition, any form of retaliation against students or employees is prohibited. Any person who believes they have been subjected to this type of prohibited activity should immediately report it to the appropriate institution official or office.

The following protections shall apply to this policy in regard to an individual's protected status:

### Students

No student may be denied admission to, or participation in or the benefits of, or be discriminated against in any service, program, course or facility of the UW System or its institutions on the basis of race, color, creed, religion, age, sex, sexual orientation, gender identity or expression, national origin, ancestry, disability, pregnancy, marital or parental status, or any other category protected by law, including physical condition or developmental disability as defined in Wisconsin Statutes §51.01(5).

### Employees

No employee may be discriminated against on the basis of race, color, creed, religion, age, sex, sexual orientation, gender identity or expression, national origin, ancestry, disability, pregnancy, marital or parental status, genetic information, arrest record, conviction record, military service, veteran status, use or nonuse of lawful products off the employer's premises during nonworking hours, declining to attend a meeting or participate in any communication about religious matters or political matters, or any other category protected by law. This provision includes employment-related actions, such as recruitment, interviewing, testing, screening, selection, placement, classification, evaluation, transfer, promotion, training, compensation, fringe benefits, layoffs, and/or dismissal.

## Definitions

The following definitions shall be used in determining whether a particular course of conduct constitutes discrimination or discriminatory harassment under this policy:

- A. **Discrimination** is conduct that adversely affects any aspect of an individual's employment, education, or participation in an institution's activities or programs, or has the effect of denying equal privileges or treatment to an individual on the basis of that individual's protected status or another category as defined in this policy.
- B. **Discriminatory Harassment** is a form of discrimination consisting of unwelcome verbal, written, graphic or physical conduct that:
  1. is directed at an individual or group of individuals on the basis of the individual or group of individuals' actual or perceived protected status, or affiliation or association with person(s) within a protected status (as defined above); and
  2. is sufficiently severe or pervasive so as to interfere with an individual's employment, education or academic environment or participation in institution programs or activities and creates a working, learning, or living environment that a reasonable person would find intimidating, offensive or hostile.

To constitute prohibited harassment, the conduct must be both objectively and subjectively harassing in nature. Harassment may include but is not limited to verbal or physical assaults, threats, slurs or derogatory or offensive comments that meet the definition set forth in this policy. Harassment does not have to be targeted at a particular individual in order to create a harassing environment, nor must the conduct result in a tangible injury to be considered a violation of this policy. 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. Sexual harassment is defined under Regent Policy 14-2 and is regulated through existing institutional policies and procedures.

- C. **Retaliation** is defined as adverse action taken against an individual in response to, motivated by or in connection with an individual's complaint of discrimination or discriminatory harassment, participation in an investigation of such complaint and/or opposition to discrimination or discriminatory harassment in the educational or workplace setting.

## Institutional Policies and Procedures

University of Wisconsin System institutions shall have: (1) policies and procedures consistent with this Board policy for the prevention and prohibition of discrimination, harassment and retaliation against students or employees; and (2) procedures in place to ensure prompt corrective action whenever discrimination, harassment or retaliation may occur.

- A. Institutional policies and procedures shall, at a minimum, contain the following provisions:

1. A clear statement of the institution's commitment to the elimination of discrimination and discriminatory harassment toward students or employees. This statement may be presented in an existing policy statement concerning general principles of nondiscrimination or anti-harassment, or articulated in a separate institutional policy.
2. A definition of what constitutes discrimination, discriminatory harassment and retaliation that is consistent with this policy and a statement that such conduct is prohibited.
3. A prohibition against using institution technology (computers, e-mail systems, voice mail system, and webpages) in any manner that would violate this policy.
4. A statement that specific incidents of alleged discrimination or discriminatory harassment will be reviewed on a case-by-case basis in accordance with the procedures developed by each institution. Due consideration will be given to the protection of individual First Amendment rights to freedom of speech, expression, and academic freedom.
5. A process under which an informal or formal complaint may be filed with the appropriate identifiable university office or department. Under this process, student complainants must file a complaint with the institution within 300 days of the alleged violation. The process shall set forth the manner and timeline in which complaints will be received, investigated, and resolved through either voluntary action on the part of the parties involved or through university action in the form of sanctions, disciplinary action, or other appropriate remedies or redress.
6. A statement indicating that retaliation against an individual for filing a complaint of discrimination or discriminatory harassment or participating in the process is prohibited. In developing these processes, existing grievance and disciplinary procedures applicable to students, student organizations, and employees will be incorporated by reference.
7. A statement that informs students who file a complaint under this policy of their right to appeal of the chancellor's or dean's decision to the Board of Regents, as permitted under s. 36.12(2)(b), Wis. Stats.

- B. Each institution shall develop a process to notify prospective and current students, student organizations, job applicants and employees of its institutional policies and procedures regarding discrimination, discriminatory harassment, and retaliation.

## Oversight, Roles, and Responsibilities

Each chancellor or his or her designee shall be responsible for implementing institutional policies consistent with this policy.

## Related Regent Policies and Applicable Laws

Section 36.12, Wisconsin Statutes

RPD 14-2: Sexual Violence and Sexual Harassment

RPD 14-3: Equal Opportunities in Education: Elimination of Discrimination Based on Gender

RPD 14-5: Measures to Alleviate Racism

RPD 14-10: Nondiscrimination on Basis of Disability

*History: 5063, adopted 10/07/1988, created Regent Policy Document 88-12. Res. 6193, adopted 09/11/1992; Res. 6278, adopted 12/11/1992; and Res. 8963, adopted 02/11/2005 amended Regent Policy Document 88-12. Regent Policy Document 88-12 was renumbered 14-6. Res. 10272, adopted 10/11/2013, amended Regent Policy Document 14-6 and deleted Regent Policy Document 14-9. Res. 11052, adopted 06/08/2018, amended Regent Policy Document 14-6 and removed Regent Policy Document 14-7.*

### SEE ALSO:

UW System Human Resources Practice Directive EEO B, *Discrimination, Harassment, and Retaliation* (<https://www.wisconsin.edu/ohrwd/practice-directives/discrimination-harassment-and-retaliation/>) (formerly EEO 5)

[UW System Administrative policies are included for reference and are separate from Regent Policy Documents adopted by the Board.]

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