



# Washington and Lee University

## University Policy on Prohibited Discrimination, Harassment, Sexual Misconduct, and Retaliation

<b>Approved By:</b> <u>President Ken Ruscio</u>	<b>Related Policies:</b> <u><a href="#">Consensual Relationships Policy</a></u>
<b>History:</b> Issued – <u>-----</u>	<u>-----</u>
Revised – <u>August 15, 2009</u>	<b>Additional References:</b> <u>-----</u>
<b>Responsible Offices:</b> <u>Offices of the Provost,</u>	
<u>Treasurer and Student Affairs</u>	

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### I. INTRODUCTION

#### Policy Statement

Students, faculty, and staff at Washington and Lee University have the right to be free from prohibited discrimination, harassment, sexual misconduct, and retaliation within the University community. Specifically, the University prohibits discrimination, including harassment, on the basis of race, color, religion, national or ethnic origin, sex, sexual orientation, age, disability, veteran's status, and genetic information in its educational programs and activities and with regard to employment. The University also prohibits sexual misconduct offenses described in this policy. Finally, the University prohibits retaliation against any individual who brings a good faith complaint under this policy or is involved in the complaint process. Such conduct violates not only University policy and expectations of personal integrity and respect for others, but may also violate state and federal law. Students, faculty, and staff found to have violated this policy will be disciplined appropriately, up to and including termination from employment or dismissal from the University.

#### Applicability

This policy applies to all Washington and Lee University students, faculty, staff, and volunteers, as well as all visitors to campus (including vendors, contractors, visiting athletes, alumni, parents and guests of students, etc.).

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### II. DEFINITIONS

There are no definitions applicable to this policy.

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### III. POLICY

#### A. Prohibited Discrimination and Harassment

In addition to other forms of discriminatory conduct based on a listed protected category that would constitute a violation of this policy, unwelcome verbal or physical conduct by or toward a member of the University community on the basis of one or more of the listed protected categories may constitute prohibited harassment, depending on the circumstances of each case. Prohibited harassment can take many forms, such as words, visual images, gestures, or other conduct.

To constitute harassment in violation of this policy there must be a finding that the conduct was: (1) based on one or more of the protected categories mentioned above; (2) unwelcome and offensive; and (3) either severe (in the case of isolated incidents) or repeated and pervasive such that it had the purpose or effect of substantially interfering with an individual's work or academic performance, or of creating an intimidating, hostile or abusive work or educational environment at the University. Harassment may also occur if submission to conduct described in (1) and (2) above is an implicit or explicit term or condition of employment, education, or participation in a campus activity or if submission to or rejection of such conduct is used as the basis for a decision regarding any University operation or program.

In addition, unwelcome sexual advances, requests for sexual favors, or other unwanted verbal or physical conduct of a sexual nature may constitute sexual misconduct, depending upon the circumstances of each case. Forms of sexual misconduct include:

1. Sexual harassment, as prohibited harassment is described above
2. Physical assault with sexual intent
3. Sexual contact without consent -- by means of force, threat, intimidation or victim incapacity
4. Sexual intercourse without consent -- by means of force, threat, intimidation or victim incapacity
5. Attempts to commit the sexual offenses listed above

Sexual misconduct in any form is a violation of this policy. However, if there is a reasonable basis for a finding that any misconduct described in numbered items 2-5 above occurred, that misconduct does not have to satisfy the elements of harassment to constitute a violation of this policy.

W&L strongly urges all members of the campus community to play a part in discouraging, responding to, and preventing the types of misconduct prohibited by this policy. W&L encourages the community to speak up when an incident occurs and to report misconduct. Any individual who feels s/he has been subjected to prohibited conduct under this policy is encouraged to seek assistance and resolution. W&L's complaint procedures provide a variety of ways by which an individual may proceed, so that each person may choose an avenue appropriate to his/her particular situation.

**B. Confidentiality**

The University will treat inquiries and complaints about prohibited discrimination, harassment, sexual misconduct, or retaliation confidentially to the extent possible, in accordance with the complaint procedures referenced herein. In some circumstances, the University may be required to act on information it has received even if the person providing the information chooses not to pursue a complaint.

**C. Retaliation and Malicious Reporting**

The University will make every reasonable effort to protect from retaliation individuals who believe themselves to be the object of discrimination, harassment, or sexual misconduct and/or who are involved in a complaint process. Retaliation, whether by an individual, a group of individuals, or an organization, against anyone who makes an inquiry about discrimination, harassment, or sexual misconduct, or who is involved in a complaint process is illegal and constitutes a violation of this policy. The malicious reporting of a false complaint of discrimination, harassment, sexual misconduct, or retaliation is also a violation of this policy. Retaliatory action or malicious reporting will be regarded as a basis for a separate complaint under this policy and the referenced procedures.

**D. Relation to Federal Law**

Washington and Lee University's policy against prohibited discrimination, harassment, sexual misconduct, and retaliation is consistent with Title IX of the Education Amendments of 1972, Titles VI and VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, and the Genetic Information Non-Discrimination Act of 2008. In addition to contacting the complaint resources specified in the referenced complaint procedures, any person with concerns regarding the University's response to his/her complaint may contact the Regional Civil Rights Director, U.S. Department of Education, Office for Civil Rights, District of Columbia Office, 1100 Pennsylvania Ave., NW, Room 316, P.O. Box 14620, Washington, DC 20044-4620, (202) 786-0500 [students]; or the Washington Field Office of the U.S. Equal Employment Opportunity Commission, 1400 L. Street, NW, Suite 200, Washington, D.C. 20005, (202) 275-7377 [employees].

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**IV. PROCEDURES FOR COMPLAINTS OF VIOLATIONS OF THIS POLICY**

**A. Complaints Against Students:** Procedures for bringing complaints against students are located at <http://counsel.wlu.edu/policy/Complaints.Against.Students.pdf>.

**B. Complaints Against Faculty, Staff, and Other Non-Students:** Procedures for bringing complaints against non-students are located at <http://counsel.wlu.edu/policy/Complaints.Against.NonStudents.pdf>.

## V. ANNOTATED POLICY REVISION HISTORY

*Revised 8/15/2009 in accordance with recommendations from the Designated Officer and Grievance Procedure Working Group, resulting in consolidation of two prior non-discrimination policies (one covering students and one covering non-students).*

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