

## **Non-Discrimination and Anti-Harassment Policy and Procedure**

**Purpose:** Transylvania University is committed to providing members of the campus community with an educational and working environment free of discrimination, harassment, and retaliation. In this document, you will find definitions of prohibited conduct, the procedure for reporting a violation, and the process for investigating the complaint.

Any employee or student who engages in conduct that violates this policy is subject to corrective action up to and including termination or dismissal.

**Scope:** The procedures detailed in this document apply to all forms of unlawful harassment and discrimination except sexual misconduct. To review the procedure for incidents involving sexual misconduct (that is, sexual harassment, sexual assault, domestic violence, dating violence, sexual exploitation, or stalking), please see the [University's Sexual Misconduct Policy](#).

**Policy:** Transylvania University is committed to ensuring that the institution is free of harassment and discrimination on the basis of race, color, citizenship status, sex, age, disability, predisposing genetic characteristics, pregnancy, creed, sexual orientation, gender identity, gender expression, marital status, national or ethnic origin, religion or religious belief, veteran's status, or any other category protected by applicable state or federal law or local ordinance. This policy applies to, but is not limited to, recruitment and admission of students, recruitment and employment of faculty and staff, the operation of any of its programs, promotion, demotion, transfer, position advertising, reduction in force, termination, rates of pay, and selection for training. Consistent with this policy, the University does not tolerate discrimination or harassment of employees, students or other individuals associated with the University. This policy applies to all faculty, staff, administration, supervisors, employees, students, applicants, volunteers, and visitors to campus, including guests, patrons, independent contractors, vendors or clients of Transylvania University. (Cabinet approved 8/16/18)

### **Definitions of Prohibited Conduct**

- A. **Discrimination.** For purposes of this policy, discrimination means an adverse employment or education action that is taken because of an employee's or student's race, color, citizenship status, sex, age, disability, predisposing genetic characteristics, pregnancy, creed, sexual orientation, gender identity, gender expression, marital status, national or ethnic origin, religion or religious belief, veteran's status, or any other category protected by applicable state or federal law or local ordinance.
- B. **Harassment.** For purposes of this policy, harassment (other than sexual harassment, which is addressed in the [University's Sexual Misconduct Policy](#)) means unwelcome verbal, written, electronic, physical, and/or visual conduct based on a person's actual or perceived protected class status, which both (1) unreasonably interferes with the person's work or educational performance; and (2) is severe or pervasive enough to create an environment that both a reasonable person and the specific person being harassed find to be intimidating, hostile or offensive.

## **Reporting**

A person may file a complaint of discrimination or harassment at any time. Early reporting is encouraged to preserve evidence and provide alleged victims with information about rights, options, and resources available under this policy and state/federal laws.

Employees or students who reasonably believe they have been harassed or discriminated against in violation of this policy should immediately report such incidents, following the procedure described below, without fear of retaliation. Retaliation is prohibited and will result in disciplinary action up to and including dismissal or termination.

Confidentiality will be maintained to the extent permitted by the circumstances. The investigation and its results will only be discussed when necessary and only with persons who need to know. Examples of situations where confidentiality cannot be maintained include circumstances when the University is required by law to disclose information, when disclosure is warranted by the University in order to protect the rights of others or is necessary to facilitate legitimate University processes including investigation and resolution of harassment and discrimination allegations.

## **Complaint Procedure**

Complaints should be made in writing when possible as follows:

1. Complaints about harassment or discrimination in which a faculty member is the accused should be submitted to the Associate Dean for Academic Affairs, if the associate dean is the accused, to the Vice President for Academic Affairs and Dean of the University or, if that Vice President is the accused, to the President.
2. Complaints about harassment or discrimination in which a staff member is the accused should be submitted to the Director of Human Resources or, if the Director of Human Resources is the accused, to the Vice President for Finance and Business or, if that Vice President is the accused, to the President.
3. Complaints about harassment or discrimination in which a student is the accused will follow the procedures and process outlined in the Student Handbook.
4. All other complaints about harassment or discrimination not addressed above should be submitted to the Director of Human Resources or, if that Director is the accused, to the Vice President for Finance and Business or, if that Vice President is the accused, to the President.

The Investigation Process. Complaints of harassment and discrimination will be promptly and thoroughly investigated by the person either to whom the complaint is submitted or, in some cases, another person assigned by appropriate VP to be consistent with the reporting chain listed above to investigate the complaint. Investigations may include speaking with the person making the complaint, the person accused, and other relevant persons, including witnesses, identified in the process. The investigation may also include a review of documents, emails, and other communications, if any, that are relevant to the complaint.

Absent circumstances requiring an extension, the investigation process (including the report described below) will be completed within twenty (20) working days after the complaint is submitted. If an extension is needed, the investigator will promptly inform the complaining party of the need for an extension and the new date by which the investigation process will be completed.

Upon conclusion of an investigation, the person conducting the investigation shall prepare a written report that addresses whether the investigation substantiated a violation of this policy and the reasons supporting the investigator's conclusion. Absent special circumstances, the person conducting the investigation will promptly provide a report of the findings to both the accused and the person who submitted the complaint.

If either party disagrees with the report, they may appeal one time to the next available level according to the chain of reporting set out above. Thus, for example, with a complaint of harassment brought against a faculty member, the report of the Associate Dean for Academic Affairs could be appealed to the Vice President for Academic Affairs and Dean of the University. All appeals must be received within five (5) working days after the date the underlying report is issued. Absent special circumstances, the decision on the appeal shall be based solely on information gathered at the previous level and shall be rendered within twenty (20) working days after the appeal was received. The decision on appeal shall be final.

Pending completion of the process described in this section, the University may take preventative steps to protect parties involved from risk of retaliation or further discrimination or harassment.

Absent special circumstances, a copy of the final decision in this process will be provided to the parties' supervisors for initiation of any corrective action that may be appropriate. A copy of the report will also be provided to whichever office(s) maintains the personnel or student file(s) for the parties involved. If, upon completion of the process described in this section, a violation of this policy is substantiated, the University will take prompt corrective action, up to and including possible termination or dismissal. The University reserves the right to provide information about any discrimination or harassment or retaliation to the appropriate legal authorities if required by law or if the University, in its sole discretion, believes illegal conduct has occurred.

### **III. Retaliation**

The University seeks to create an environment where its students and employees are free, without fear of reprisal, to use its procedures to determine if there has been a violation of their rights under this policy. Any act of retaliation for reporting a complaint or participating in an investigation or proceeding under this policy will result in appropriate disciplinary action.

Retaliation is defined as any intentional, materially adverse action taken by a responding individual or allied third party, absent legitimate nondiscriminatory purposes, toward a participant or supporter of a participant in a resolution process under this procedure and policy and/or student code of conduct. Acts of alleged retaliation should be reported immediately to the appropriate VP, consistent with the procedure listed above, or the

assigned investigator. Retaliation is considered an independent allegation that may lead to interim measures and/or disciplinary action if found responsible. Reports of retaliation in violation of this policy will be processed under this policy for faculty and staff the same as other alleged violations of this policy. Reports of retaliation involving students will be processed under Student Handbook.