





This policy also supersedes and retires Policy 8.6, Grievance Procedures – Employee and Student Complaints of Discrimination, and unifies the grievance process. The effective date represents only the date that this version was published on policies.emory.edu and does not reflect the original effective date of this policy.

## **Applicability**

This Policy shall apply to persons who are employees and students of Emory University, vendors, contractors, guests, patrons, and other third parties participating in any Emory-sponsored event or program, whether on or off campus, and to such persons in other situations in which the respondent is acting as a member of the Emory community.

### Complaints Against Students

Students are bound by the principles outlined in this policy. However, complaints against students (when acting in the capacity as a student) shall be resolved under the Conduct Code provided by that student's school or college unless the student's school or college conduct code provides otherwise. Investigation of complaints against students who are acting in the capacity of an employee shall be conducted by the Director of Department of Equity and Inclusion (DEI) and/or the Title IX Coordinator, or his or her designee, who shall report his or her findings and recommendations to the Senior Vice President and Dean for Campus Life and the Dean of the school or college in which the student is enrolled.

### Sexual Harassment Complaints Against Students

Sexual Misconduct is a form of gender discrimination prohibited by Title IX of the Education Amendments of 1972. Title IX specifically prohibits sexual harassment and sexual misconduct in the educational setting. Emory University has adopted a separate Sexual Misconduct Policy, University Policy 8.2 that applies to student-on-student allegations or allegations in which the respondent is a student. Policy 8.2 explains how to report allegations of sexual misconduct, and sets forth detailed procedures designed to provide a fair process for parties when students are involved in allegations of sexual misconduct.

## **Policy Details**

### 1.3.1. EQUAL OPPORTUNITY POLICY

### 1.3.2. DISCRIMINATORY HARASSMENT POLICY

### 1.3.3. INVESTIGATION AND RESOLUTION PROCESSES

### 1.3.4. COMPLAINTS AGAINST VENDORS, CONTRACTORS AND THIRD PARTIES

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### 1.3.6 ADDITIONAL UNIVERSITY RESOURCES

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### **1.3.1. EQUAL OPPORTUNITY POLICY**

Emory University is dedicated to providing equal opportunities to all individuals regardless of race, color, religion, ethnic or national origin, gender, genetic information, age, disability, sexual orientation, gender identity, gender expression, and veteran's status. Emory University does not discriminate in admissions, educational programs, or employment on the basis of any factor stated above or prohibited under applicable law. Students, faculty, and staff are assured of participation in University programs and in the use of facilities without such discrimination. Emory University complies with all applicable equal employment opportunity laws and regulations, and follows the principles



outlined above in all aspects of employment including recruitment, hiring, promotions, transfers, discipline, terminations, wage and salary administration, benefits, and training.

### 1.3.2. DISCRIMINATORY HARASSMENT POLICY

In keeping with its commitment to maintaining an environment that is free of unlawful discrimination and with its legal obligations, Emory maintains a policy prohibiting unlawful harassment. Discriminatory harassment of any kind, whether it is sexual harassment or harassment on the basis of race, color, religion, ethnic or national origin, gender, genetic information, age, disability, sexual orientation, gender identity, gender expression, veteran's status, or any factor that is a prohibited consideration under applicable law, by any member of the faculty, staff, administration, student body, a vendor, a contractor, guest or patron on campus, is prohibited at Emory.

At the same time, Emory recognizes the centrality of academic freedom and the University's determination to protect the full and frank discussion of ideas. (See Policy 8.14.) Thus, discriminatory harassment does not refer to the use of materials for scholarly purposes appropriate to the academic context, such as class discussions, academic conferences, or meetings. Additionally, discriminatory harassment does not refer to participation in lawful protests, public forums, or campus publications established for the purpose of freely expressing opinions or ideas in the university community.

#### A. Discriminatory Harassment of a Sexual Nature

Sexual harassment includes unwelcome conduct, based on sex or gender stereotypes, when;

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or student status or;
- Submission to or rejection of such conduct is used as the basis for employment or academic decisions affecting such individual or;
- Such conduct is so severe and/or pervasive it has the purpose or effect of unreasonably interfering with a person's university employment, academic performance or participation in university programs or activities, or creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive.

Depending upon the severity and/or pervasiveness of the conduct, sexual harassment may include, for example, subjecting a person to egregious, unwelcome sexual attention, physical or verbal advances, sexual flirtations or propositions, vulgar talk or jokes, degrading graphic materials or verbal comments of a sexual nature about an individual or his or her appearance, or the display of sexually suggestive objects outside a scholarly context and purpose.

Sexual harassment includes sexual misconduct, sexual violence, sexual assault, intimate partner violence, stalking, and gender-based bullying. Prohibited sexual harassment in the working or learning environment includes an attempt to coerce an unwilling person into a sexual relationship; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances, and to make direct or implied threats that submission to sexual advances will be a condition of employment or academic opportunity. Sexual harassment may also occur in the form of unwelcome, sexually suggestive cartoons, pictures, email, text, tweets, video or other graphic materials that may contribute to a hostile working or learning environment.

The alleged harasser may be a member of the faculty, staff, administration, student body, a vendor, a contractor, a guest or patron on campus.

#### B. Discriminatory Harassment of a Non-Sexual Nature

Emory's policy prohibits discriminatory harassment of a non-sexual nature, which includes verbal, physical, or graphic conduct that denigrates or shows hostility or aversion toward an individual or group on the basis of race, color, religion, ethnic or national origin, gender, genetic information, age, disability, sexual orientation, gender identity, gender expression, veteran's status, or any factor that is a prohibited consideration under applicable law, and that is so severe and/or pervasive it:



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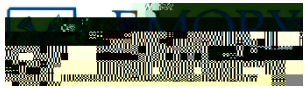


**1.3.4. FILING AN EXTERNAL COMPLAINT**

An individual who believes that he or she has been subjected to unlawful discrimination, harassment, or retaliation has the right to file a complaint with an appropriate local, state, or federal agency, such as the Department of Education Office of Civil Rights (OCR) <http://www2.ed.gov/about/offices/list/ocr/index.html> or the Equal Employment Opportunity Commission (EEOC) <http://www.eeoc.gov/>, within applicable time limits. In addition, any person who is dissatisfied with Emory’s internal procedures utilized for handling complaints, or who is dissatisfied with the result of the investigation or the sanctions imposed, may seek redress through the EEOC, to the extent allowed by law. The complainant should be aware that filing a complaint with the University’s Department of Equity and Inclusion or other University resource does not extend or postpone the deadline for filing with external agencies. In the event that a complaint is filed with an external agency or court, the University reserves the right to determine, at its discretion, whether the University’s internal complaint resolution procedure should be discontinued or continued separately.

**1.3.4. COMPLAINTS AGAINST VENDORS, CONTRACTORS AND THIRD PARTIES**

Emory’s commitment to providing members of its community with a working and learning environment that is free of discriminatory harassment includes freedom from inappropriate conduct by vendors, contractors, and third parties. If a member of the University community believes he or she has been subjected to harassing conduct by a vendor, contractor, or third party, he or she should report such conduct to the Department of Equity and Inclusion, to his or her immediate supervisor or Dean, or to a higher University official. Such complaints should be forwarded to the Department of Equity and Inclusion immediately. DEI will work with the complaining party to investigate the complaint, and the University will take prompt corrective action if iny t, w of5tecoh con(int is)1(shon1(rdeharec)89(occpnt immeately.))TJ ET Q q 1



**Coercion** - Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When a person makes clear that the person does not want sex, wants to stop, or that going past a certain point of sexual interaction is unwanted, continued pressure beyond that point can be coercive.

**Complainant** - The person making an allegation or complaint of discrimination.

**Complaint** - A formal notification, either orally or in writing, of the belief that discrimination or violation of this Policy has occurred.

**Consent** - Consent is clear, unambiguous, and voluntary agreement between participants to engage in specific sexual activity. Consent is active, not passive, and is given by clear actions or words. Consent may not be inferred from silence, passivity, or lack of active resistance alone. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Being intoxicated does not diminish one's responsibility to obtain consent. In some situations, an individual may be deemed incapable of consenting to sexual activity because of circumstances or the behavior of another, or due to their age. Examples of such situations include, but are not limited to, incompetence, impairment from alcohol and/or other drugs, fear, unconsciousness, intimidation, coercion, confinement, isolation, or mental or physical impairment.

**Force** - The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes resistance or produces consent. There is no requirement that a person has to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

**Incapacitation** - Incapacity can result from mental disability, sleep, involuntary physical restraint, or from intentional or unintentional taking of alcohol and or other drugs. An incapacitated person does not have the ability to give knowing consent. Sexual activity with a person who one should know to be – or based on the circumstances should reasonably have known to be – mentally or physically incapacitated, constitutes a violation of this policy. The perspective of a reasonable person will be the basis for determining whether one should have known about the impact of the use of alcohol and/or drugs on another's ability to give consent.

**Intimate Partner Violence (IPV)** - Physical, sexual, or psychological harm by a current or former partner or spouse. This type of violence can occur among heterosexual or same-sex couples, whether cohabitating or not, and does not require sexual intimacy. IPV can vary in frequency and severity, can occur on a continuum, and can include acts of physical violence, sexual violence, threats of physical or sexual violence, or psychological or emotional violence. Psychological or emotional violence is a broad term that results in trauma to a victim caused by acts, threats of acts, or coercive tactics, and can include acts of humiliation, intimidation, isolation, stalking, and harassment.

**Non-Consensual Sexual Contact** - Any intentional sexual touching by a person upon a person, that is without consent and/or by force. This includes, but is not limited to, intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch oneself or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by





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- Version Published on: [Apr 02, 2007](#) (*Original Publication*)