



**THE UNIVERSITY of
NEW ORLEANS**

**ADMINISTERED BY: Office of Vice
President for Business Affairs**

Policy No: AP-BA-32.6

**TITLE: Discrimination, Harassment,
and Retaliation**

**EFFECTIVE DATE: April 4, 2014*
(*Policy Revised, see below)**

CANCELLATION:

REVIEW DATE: Spring 2025

PURPOSE

The purpose of this policy is to affirm the University’s commitment to prohibiting illegal discrimination, harassment, and retaliation and to provide a process for employees, students, applicants, and members of the public to report complaints of discrimination, harassment (including sexual harassment), and retaliation by an employee, student, or other person associated with UNO.

AUTHORITY

Authority for this policy is derived from: Bylaws and Rules of the University of Louisiana System, Part Two, Chapter III, Section XIX; University of Louisiana System Policy and Procedure Memorandum M-11a, M-12 and M-18; all applicable federal, state, and local anti-discrimination laws including, but not limited to, Equal Pay Act of 1963; Title VII of the Civil Rights Act of 1964; Executive Order 11246 of 1965; Age Discrimination in Employment Act of 1967 (ADEA); Section 504 of the Rehabilitation Act of 1973; the Civil Rights Act of 1991; Title II of the Genetic Information Nondiscrimination Act of 2008; Title IX; Title VI; Age Discrimination Act of 1975; Americans with Disabilities Act (ADA); Pregnancy Discrimination Act of 1978; Immigration Reform and Control Act of 1986; Vietnam Era Veteran’s Readjustment Assistance Act of 1974.

APPLICABILITY

This policy prohibits illegal discrimination and harassment involving current employees, students, and applicants of UNO. This policy also prohibits retaliation against any employee, student, or applicant, who, in good faith, reports or assists in the investigation of prohibited conduct. This policy applies to (1) all aspects of the employment relationship; (2) admission and treatment of students in the University’s educational programs and activities; and (3) participation in or access to University sponsored programs, activities or facilities.

GENERAL POLICY

It is the policy of UNO to maintain an environment free from illegal discriminatory practices, harassment (including sexual harassment), and retaliation. It is a violation of UNO policy to discriminate against any employee, student, or applicant on the basis of race, sex, color, national origin, religion, citizenship, sexual orientation, age, veteran status, disability, genetic information,

gender identity, or any other legally protected characteristic or status. This policy requires that all employees, students, and applicants be treated fairly and in accordance with law regarding the employment and educational relationship.

DEFINITIONS

Complaint: Allegations of discrimination, harassment, or retaliation, filed in good faith and in accordance with established procedures.

Discrimination: Illegal treatment of an individual based on legally protected characteristics or status rather than individual merit.

Harassment: Unwelcome conduct directed against a person based on the person's protected characteristics or statuses that is determined by a reasonable person to be so severe or pervasive that it creates an intimidating, hostile, or offensive environment.

Protected Characteristics and Statuses: Race, sex, color, national origin, religion, citizenship, sexual orientation, age, veteran status, disability, genetic information, gender identity, or any other legally protected characteristic or status.

Protected Conduct or Activity: Conduct or activity that is permitted or protected by law or University policy.

Retaliation: An adverse action taken against an individual as the result of the individual's protected complaint of discrimination or harassment or the individual's participation in an investigation of discrimination or harassment. For purposes of this Policy, an attempt requires a substantial step towards committing a violation.

PROHIBITED CONDUCT

A. Discrimination

Discrimination in the workplace or learning environment involves taking illegal adverse action against or providing illegal preferential treatment to an individual solely because of the individual's protected characteristics or status. Examples include:

- Denying or granting promotions or other advancement opportunities based solely on an individual's protected characteristics or status;
- Granting preference in education or employment based solely on an individual's protected characteristics or status;
- Assigning grades based on an individual's protected characteristics or status;
- Making work assignments based on an individual's protected characteristics or status;
- Denial of leave based on an individual's protected characteristics or status.

B. Harassment

Harassment in the working or learning environment consists of unwelcome and objectively offensive (both from the victim's perspective as well as from the perspective of a reasonable person) physical, verbal, or nonverbal conduct that is severe or pervasive and unreasonably interferes with an individual's work or educational activities and/or which creates an intimidating or hostile working or learning environment.

C. Sexual Harassment

Sexual harassment is a form of discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when:

- Submission to that conduct is made a term or condition of employment,
- Submission to, or rejection of, that conduct is used as a basis for employment decisions affecting the employee, or;
- That conduct is so severe or pervasive and objectionably offensive (both from the victim's perspective as well as from the perspective of a reasonable person) that it has the effect of unreasonably interfering with an individual's work performance or of creating a hostile, abusive, or intimidating working or learning environment.

D. Retaliation

Retaliation includes overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or group exercising rights under this policy. No applicant, employee, student or other individual who complains in good faith about a violation of policy or who participates in an investigation of a complaint made pursuant to UNO and UL System policies shall be subject to retaliation in any form. Retaliation may exist even when the underlying complaint is without merit.

The University will take prompt and appropriate action to prevent and correct situations that violate this policy. The University may take disciplinary action against an individual who violates this policy when the University determines that is appropriate.

COMPLAINT PROCEDURE

A. Filing a Complaint

Any member of the University community who believes they have been subjected to conduct prohibited under this policy has a right to file a complaint. No student, employee, or applicant is required to make a complaint of discrimination to the person who has engaged in the conduct that is the basis for the complaint. Complaints of sexual harassment should be reported to the Title IX Coordinator and will be investigated according to the policy on Prohibiting Sex Discrimination, Sexual Misconduct, and Interpersonal Violence ([AP-OP-28](#)).

To file a complaint:

- **Students** – A student who wishes to file a complaint should contact [Student Accountability and Disability Services](#).
- **Employees** – An employee who wishes to file a complaint should contact the [University Compliance and Employee Relations Officer](#) or vice presidents.
- **Members of the Public** – A member of the general public who wishes to file a complaint should contact the [University Compliance and Employee Relations Officer](#).

B. Receiving a Complaint

Any manager, supervisor, or faculty member who receives a complaint or becomes aware of a possible violation of this policy is required to immediately notify the University Compliance and Employee Relations Officer or Student Accountability and Disability Services to obtain advice and assistance in responding to the complaint.

C. Establishing and Investigating Complaints

In general, the University Compliance and Employee Relations Officer or designee will investigate complaints of unlawful discrimination involving employees of UNO. In general, Student Accountability and Disability Services will investigate complaints of illegal discrimination involving students of UNO. However, the two departments may collaborate on complaints when appropriate.

The University will address complaints promptly.

The complaining party should provide sufficient information to allow for a thorough investigation of the situation, including: the name of the alleged discriminator; the date, time, and place of any alleged incidents; and the names of witnesses.

Information obtained regarding the complaint will be kept confidential to the extent possible and will be disclosed only on a need-to-know basis for purposes of investigation or subsequent disciplinary action.

The following types of evidence will apply to the investigation process:

Direct Evidence: In order to establish direct evidence of discrimination, harassment, or retaliation, there must be proof that the adverse action was taken as a result of a protected activity. An example of direct evidence may include a written or verbal statement by a supervisor that the supervisor took actions against an individual for engaging in protected activity.

Circumstantial Evidence: A violation can also be established if there is circumstantial evidence of discrimination, harassment, or retaliation. Typically, this link may be demonstrated if the adverse action took place shortly after the protected activity or if the person undertaking the adverse action was aware of the individual's activity before taking the action.

Non-Retaliatory Reason: Retaliation may be established if the University fails to find evidence of a legitimate non-retaliatory reason for the action. Common non-retaliatory reasons for adverse employment actions include poor job performance, inadequate qualifications for the position sought, or violation of rules by the individual.

Pretext to Motive: Even if the University finds evidence of a legitimate reason for the adverse action, a violation may still be found if the reason is a pretext to hide actual motive. This may be proved through evidence that an individual was treated differently from similarly situated employees or subjected to heightened scrutiny after engaging in a protected activity.

D. Reporting and Investigation Process

If an allegation of discrimination, harassment, or retaliation is against the University Compliance and Employee Relations Officer or against the Director of Student Accountability & Disability Services, the complainant should complain directly to the vice presidents or University President.

If an allegation of discrimination, harassment, or retaliation is against the University President, the complainant should complain directly to the University Compliance and Employee Relations Officer, who will handle the complaint in accordance with this policy. In order to ensure fairness and objectivity, the President may not oversee or obstruct the handling of the complaint. The President will appoint an administrative official of the University to collaborate with the University Compliance and Employee Relations Officer in the event administrative assistance is needed with handling of the complaint.

After the University Compliance and Employee Relations Officer reaches a conclusion on the complaint against the President, if the complainant wishes to appeal, the complainant should appeal to UL System EEO Coordinator at the following address:

EEO Coordinator
UL System
Claiborne Building
1201 N. Third, Suite 7-300
Baton Rouge, LA 70802
225-342-6950

The complainant's appeal to the UL System should be filed within 30 days of notification of the conclusion reached by the University Compliance and Employee Relations Officer.

Complaint Procedures - Complaints, whether informal or formal, should be reported as soon as possible after any alleged incident has occurred. There is no deadline for reporting prohibited conduct; however, a long period of time in between the alleged retaliation and the reporting may affect the investigation.

Informal Complaint - Informal complaints are not required and a complaint of unlawful retaliation does not have to begin at the Informal Complaint stage. However, use of the Informal Complaint process may allow a matter to be resolved quickly if the complainant believes that the circumstances make the Informal Complaint process appropriate for a particular situation. Informal complaints should be made in writing within 10 business days of the date that the employee knew or had reason to know of the alleged harassment, discrimination, or retaliation.

Informal complaints can be resolved through informal meetings (either separate or together) with the complainant and person engaging in the alleged conduct and informal information gathering. Supervisors and department heads, and other administrators may be involved in resolving an informal complaint. If the Complainant is not satisfied with the results of an informal complaint, a Level 1 Complaint can be filed to begin the Formal Complaint Process. The University Compliance and Employee Relations Officer may document the resolution of an Informal Complaint.

Formal Complaint - Formal employee complaints must either be submitted in writing or will be reduced to writing by the University Compliance and Employee Relations Officer or designee on behalf of the Complainant. Formal student complaints must be submitted in writing or will be reduced to writing by the Student Accountability Liaison/Officer. The formal complaint should include the following information:

Details concerning the incidents or conduct giving rise to the complaint; and

1. Dates and locations of incident(s); and
2. Any witnesses to the alleged incident(s) or conduct; and
3. Any previous actions of retaliation reported. If so, to whom and when; and
4. Action requested to resolve the complaint and prevent future violation of the policy.

A complaint shall not be dismissed for failure to include any or all of the above information. However, complaints with little or no substance will be difficult to investigate. As much substance as possible within the complaint will assist the University in conducting the investigation.

Level 1 - Written complaints of retaliation should be submitted to the University Compliance and Employee Relations Officer or Director of Student Accountability within 10 business days of the alleged incident if the complainant does not wish to use the informal complaint process. This is not a deadline that will prevent a claim of unlawful retaliation from being heard. However, complaints that are made more than 30 calendar days after the complainant knew or should have known about the alleged conduct will be more difficult or impossible to investigate depending on the facts involved. The University Compliance and Employee Relations Officer or designee will either investigate or authorize an investigation and will issue a written summary of the outcome of the investigation within a reasonable timeframe. A copy of the written summary of the investigation will be provided to both parties. Cases involving students will be handled through the student accountability process as outlined in the Student Code of Conduct.

Level 2 – Cases involving employees: If either party to a complaint of prohibited conduct wishes to appeal the Level 1 decision, an appeal of the written decision must be made in writing within 10 business days of the receipt of the Level 1 Complaint determination. The appeal should be sent to the Office of the President of the University who will forward the appeal to the University EEO Advisory Committee for a review and determination. Cases involving students will follow the appeal process as outlined in the Student Code of Conduct.

Equal Employment Opportunity (EEO) ADVISORY COMMITTEE

The University EEO Advisory Committee – The University shall create an EEO Advisory Committee composed of faculty and staff from various departments. The EEO Committee should include individuals representing the interests of classified and unclassified staff and should reflect the diverse workforce on the campus. The EEO Committee for each University will communicate regularly regarding issues related to policy implementation including University climate and systemic concerns. In addition to its other responsibilities, a sub-group of between three to five of the EEO Advisory Committee Members shall serve as the Level 2 appeal review committee for this Retaliation Complaint process.

Prior to the EEO Advisory Committee's review, a trained investigator appointed by the President of the University will:

1. Review and investigate the Level 1 complaint decision;
2. Collect and clarify additional available facts about the alleged incident;
3. Meet with the complainant and the accused individual, separately, if appropriate.

The trained investigator will provide a report to the EEO Advisory Committee. The EEO Advisory Committee will review the Level 1 decision and the appeal as well as the investigator's report, and will make a determination regarding the Level 1 decision and will provide detailed findings along with any recommendations for appropriate action to the President of the University for consideration. Recommendations may include: uphold the Level 1 decision in full or in part or render an alternative decision in full or in part. The President of the University will review the report submitted by the EEO Advisory Committee and depending upon the nature and severity of the charge(s), the President may approve the recommended action or recommend an alternate resolution.

The complainant and the accused individual will be notified of the decisions at each level. The complainant will also be notified of all elements of the decision that directly relate to the complainant, involve general campus wide changes, or are otherwise required by state or federal law. To the fullest extent practicable and consistent with a thorough investigation, all complaints will be kept confidential, considering the specific circumstances of the allegations, to protect the rights of both the complainant and the individual accused.

Notification of Outcome - The complainant and the individual who is the subject of the complaint will be notified as to the outcome of the investigation.

Sanctions - The merits of the complaint giving rise to the retaliation claim are irrelevant. As stated above, retaliation gives rise to a separate claim from the underlying complaint. Consequently, anyone violating the policy may be in violation of federal laws protecting retaliation for protected activity and this policy regarding retaliation even if the original complaint of discrimination or harassment is not proven, is dismissed or is withdrawn and held responsible for such conduct. The policy shall clarify that, following an investigation, if a faculty, student or staff member is found in violation of the policy, that individual may be subject to disciplinary actions, and the sanctions may include reprimand, probation, suspension, demotion, reassignment, termination, and expulsion.

Training - The University Compliance and Employee Relations Officer shall identify the Human Resources personnel as well as the managerial and supervisory personnel on each campus each year. These individuals shall be provided annual training on the discrimination, harassment, and retaliation policy and shall have access to the University Compliance and Employee Relations Officer to address any questions or concerns that arise with respect to this policy. The University Compliance and Employee Relations Officer shall have access to and shall use the UL System EEO Coordinator/Officer as a resource as needed to ensure compliance with this policy.

The EEO Committee shall also receive training with respect to how to properly review and analyze complaints of retaliation as part of their annual EEO Training.

Reporting - The University Compliance and Employee Relations Officer will provide an annual report to the UL System EEO Officer/Coordinator. Such report will include information such as instances of informal and formal complaints regarding prohibited conduct as well as resolutions of such complaints. The report will also include information regarding any identified systemic concerns regarding unlawful retaliation such as identified areas within the campus such as employment areas or colleges as well as recommended solutions to ensure that unlawful retaliation does not continue within the University.

NOTIFICATION TO NATIONAL INSTITUTES OF HEALTH (NIH)

If a principal investigator or other key individual named on a National Institutes of Health (NIH) grant award is no longer able to fulfill their obligations to conduct research because they are under investigation or have been removed from the workplace because of sexual harassment concerns, NIH requires institutions to notify NIH of this change. When such an action occurs, the Office of Human Resource Management will notify the Office of Research so they can notify the NIH.

ADDITIONAL REFERENCES:

University of Louisiana System Policy and Procedures Memorandum

- [Prohibiting Workplace Harassment, and Discrimination \(M-11a\)](#)

University of Louisiana System Policy and Procedures Memorandum

- [Preventing and Addressing Retaliation \(M-12\)](#)

University of Louisiana System Policy and Procedure Memorandum

- [Hiring Without Regard to Retirement Status and Without Regard to Prior Complaints of Discrimination of Other Protected EEO Activity \(M18\)](#)

University of New Orleans Administrative Policies

- [AP-BA-35.2 - Equal Employment Opportunity](#)
- [AP-OP-28.1 - Prohibiting Sex Discrimination, Sexual Misconduct, and Interpersonal Violence](#)



John W. Nicklow
President
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**Policy updates:*

*Revisions: 02/24/2022
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