Hard Wired for Discriminating Taste

Civil Rights Act of 1964, Title VII
42 USC § 2000e-21

Unlawful employment practice for an employer:
(1) to hire, fire, otherwise to discriminate against any individual with respect to
Title VII (cont.)

compensation, terms, conditions, or privileges of employment, because of race, color, religion, sex, or national origin; or
(2) to limit, segregate, or classify employees or applicants in any way which would deprive or tend to deprive

Title VII (cont.)

any individual of employment opportunities or otherwise adversely affect status as an employee, because of such individual’s race, color, religion, sex, or national origin

Equal Pay Act of 1963 (EPA)
29 USC § 206(d)²

(1) Equal wages between sexes if:
   i. Equal work
   ii. Equal skill, effort and responsibility
   iii. Performed similar conditions
EPA (cont.)
(2) Exceptions
i. a seniority system;
ii. a merit system;
iii. a system which measures earnings by quantity or quality of production; or
iv. a differential based on any other factor other than sex
v. employer who is paying a wage rate differential in violation of this subsection shall not reduce the wage rate of any employee to comply

Education Amendments of 1972, Title IX
20 U.S.C. §§ 1681-16883

No person shall be excluded from participation, denied benefits of, or be subjected to discrimination on the basis of sex, under any educational program; activity; receiving federal funds

Pregnancy Discrimination
Act of 1978 (PDA)
42 USC § 2000e(k)4

(1) Amended definition of 'because of sex' or 'on the basis of sex' to include, because of or on the basis of pregnancy, childbirth, or related medical conditions;
PDA (cont.)
(2) Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including benefits, as other persons not so affected but similar in their ability or inability to work;
(3) Nothing in section 703(h) of this title shall be interpreted to permit otherwise

Pregnancy Based Discrimination
- Pregnancy, childbirth, and related medical conditions must be treated the same as other temporary illnesses or conditions
- Permitted to work/go to class as long as they are able to perform

Pregnancy and Maternity Leave
- May not have a rule which prohibits an employee from returning to work
- Must hold a job for a pregnancy related absence the same length of time jobs are held open for employees on sick or disability leave
42 USC § 1983

Prohibits the State from depriving any person of any rights, privileges, or immunities secured by the Constitution and laws

Discriminatory Practices under these Anti-Discrimination Laws

- Harassment based on one of the protected classes
- Hiring and Firing
- Compensation
- Assignment or classification
- Transfers, promotions, layoffs, recalls
- Job advertisements
- Recruitment
- Testing

Discriminatory Practices (cont.)

- Use of Company Facilities
- Training and apprenticeships
- Fringe Benefits
- Retirement and Disability plans
- Decisions based on stereotypes or assumptions about the abilities, traits or performance of individuals of a certain sex
- Anything that affects the terms and conditions of employment
Retaliation is prohibited

1. Filing a charge
2. Participating in an investigation
3. Opposing discriminatory practices

Retaliation

Actionable retaliation occurs if the behavior would dissuade a reasonable worker from making or supporting a charge of discrimination\(^6\)

Retaliation

Actionable retaliation occurs against a third party if the third party falls within the zone of interest sought to be protected by the statutory provision whose violation forms the legal basis for the complaint\(^7\)
Retaliation Under Title IX

Retaliating against a person because that person has complained of sex discrimination is a form of gender discrimination actionable under Title IX.

Discrimination Prohibitions

Federal law does not prohibit simple teasing, offhand comments, or isolated incidents that are not extremely serious.

Discrimination Statutes

Does not set forth a general civility code for the American workplace.

Judicial standards for sexual harassment must filter out complaints attacking the ordinary tribulations of the workplace, such as the sporadic use of abusive language, gender-related jokes, and occasional teasing.
Harassment

Behavior which creates an intimidating, hostile, or offensive working environment or unreasonably interferes with the individuals work performance

Harassment/Discrimination can be Same Sex

Sex discrimination can be male on female, female on male, male on male, or female on female

Offensive or Derogatory comments, photos, jokes

Key: was the discriminatory behavior “because of sex”

Language Matters

An action for discrimination can be based on the use of a single word

Use of the word “boy” was probative of bias
Language Matters
Professor referred to student as Monica Lewinsky in classroom;
"How was your weekend with Bill?"
"Shut up, Monica. I'll give you a cigar later."
Enough to support a Title IX and 1983 actions
Case was allowed to proceed
Court of Appeals ruled that Professor may be individually liable under 1983\textsuperscript{12}
Because of lack of knowledge, SUNY defendants were dismissed under Title IX

Reverse Discrimination
Philadelphia School District sued by four white male purchasing managers terminated by female supervisor, Kimberly Sangster;\textsuperscript{13}
"Too many white male managers" in Procurement Department;
Fired 4 white males, but hired new managers less qualified, first 7 hires African American;
At first meeting kept track of attendees race

Hostile Work Environment
Conduct must be sufficiently frequent or severe to create a hostile work environment or result in a tangible employment action such as hiring, firing, promotion, constructive discharge or demotion
Harassment

Employer is liable for supervisors actions when harassment culminates in a tangible employment action directed against the harassed employee.\textsuperscript{10/14}

Tangible Employment Action/Benefit

Does not have to be tied to a financial benefit
Can include:
- Change in status
- Discharge
- Demotion
- Undesirable Assignment\textsuperscript{14}

Employer Liability

Vicarious liability for an actionable hostile work environment created by a supervisor with immediate (or successively higher) authority over the employee.\textsuperscript{10/14}
Defense Only When No Tangible Employment Action

Employer may raise an affirmative defense

1. Employer exercised reasonable care to prevent and correct promptly any sexually harassing behavior, (policy and investigation)

Defense

2. Employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise (failed to report or utilize the employer’s policy/procedure)

UCO Equal Employment Opportunity15

EEO is a fundamental principle at UCO. Employment based on personal capabilities and qualifications without discrimination because of . . . gender, marital status, . . . or any other protected characteristic
UCO's Non-Harassment Policy

Committed to a workplace that is free from unlawful harassment . . . on the basis of . . . gender . . . sexual orientation . . . This includes, but is not limited to, sexual harassment.

UCO's Non-Harassment Policy
(cont.)

Applies to supervisors, applicants, clients, temporaries, visitors, employees, students, parents, 3rd parties (i.e., customers, independent contractors, sales representatives, or repair persons)

UCO’s Non-Harassment Policy
(cont.)

- Not tolerate harassment or retaliation
- Each employee of the UCO bears the responsibility to refrain from harassment
- Disciplinary action up to and including dismissal for inappropriate conduct
UCO's Non-Harassment Policy\textsuperscript{16} (cont.)

Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

1. Submission is either explicit or implicit term or condition of employment

2. Submission or rejection of conduct is used as basis for employment decision

3. Conduct has purpose or effect of unreasonably interfering with work environment, creates an intimidating, hostile or offensive work environment

UCO's Non-Harassment Policy\textsuperscript{16} (cont.)

- Sexual harassment can be same sex
- May include intentional physical conduct or suggestive language that is sexual in nature
UCO’s Non-Harassment Policy
(cont.)

• Sexual harassment can occur in:

<table>
<thead>
<tr>
<th>Person</th>
<th>Writing</th>
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<tbody>
<tr>
<td>Telephone</td>
<td>Text</td>
</tr>
<tr>
<td>Email</td>
<td>Social Media</td>
</tr>
<tr>
<td>Internet</td>
<td>(Cartoons, jokes)</td>
</tr>
</tbody>
</table>

UCO’s Non-Harassment Policy
(cont.)

Is the one receiving the information offended, whether the intended recipient or not?

Employee who observes harassment or believes has been harassed should:

1. Deal with the incident directly and firmly, clear communication to the offending party

2. Communicate incident to supervisor, administration official, or to Employee Relations and Development in Office of Human Resources or to Office of Legal Counsel

3. After hours incidents can be reported to the Police Services
How to Report Harassment, Discrimination or Retaliation
Any manner that effectively communicates concerns:

Orally       Written
Email        Letter
Memo         Note
Any reasonable means

Reporting Harassment (cont.)

Information beneficial to include:
- Dates and times of incidents
- Names of all involved, including witnesses, victims, harassers
- Detailed facts, descriptions

Make Reports Timely, as Soon as Possible
- Investigations/Determinations
- Prompt investigation
- Includes interviews
- Review of Documents
Reporting Harassment (cont.)

- Candor and Honesty expected of all involved in investigation
- Confidential as practical, but cannot guarantee confidentiality
- Credibility will play a role

Reporting Harassment (cont.)

- Determination based on totality of the circumstances
- Employees who intentionally falsify a claim of harassment/discrimination may be subject to immediate discipline up to and including termination

UCO Complaint Procedure in Cases of Unlawful Discrimination or Harassment

Restates the EEO policy “fair and equal employment and educational practices” without discrimination because of: ...

Gender, Marital Status ...
Sexual Orientation, Gender identity
Any other protected characteristic
Reporting of Harassment/Discrimination:

Affirmative Action Officer
114 Lillard Administration
Phone: (405) 974-3377
Fax: (405) 974-3807
After hours: University Police
(405) 974-2345

Complaint may be made by:

- Employee (faculty or staff)
- Student
- Applicant (employment or admission)
- Visitor
- Non-affiliated individual

UCO will investigate

- Fair and impartial investigation
- No retaliation for making a complaint or cooperating in an investigation
Coordinators of Investigation

Brad Morelli, Affirmative Action Officer,
Director of Equal Opportunity/Title IX/Title VII 504 Complaint Coordinator
Elizabeth H. Kerr, Deputy Affirmative Action Officer,
Deputy Director of Equal Opportunity/Title IX/Title VII 504 Complaint Deputy Coordinator
114 Lillard Admin. Building, 100 N. University Dr.
Phone: (405) 974-3377 Fax: (405) 974-3807
After hours: University Police (405) 974-2345
bmorelli@uco.edu ekerr@uco.edu

Initiating a complaint

Applies to complaints of gender discrimination

Applies to the following individuals:

Employees, students, applicants for employment/admission, visitor or other non-affiliated individual, to offices identified above

Initiating a complaint (cont.)

Initiate complaint in person, meeting, or writing

Complaint includes dates, places, individuals’ names, efforts to informally address situation, results, any pertinent information
Additional Student Reporting Options
Office of Student Conduct
Complaints against employees, faculty and staff, to Dean or college where harassment or discrimination allegedly occurred

Additional Faculty or Staff Reporting Options
Office of Student Conduct
Human Resources Department
Dean of college where harassment or discrimination allegedly occurred

Offsite Locations
Report complaints to any of the above, or to on-site director
After hours complaints/Holidays:
UCO Police Services (405) 974-2345
RUSO\textsuperscript{*} Tip Line

EthicsPoint

Anonymous submissions

\url{www.ruso.ethicspoint.com}

\textsuperscript{*}Regional University System of Oklahoma

EthicsPoint (cont.)

Employee, student, applicant, visitor, other affiliated individual
Report by calling (866) 898-8438
EthicsPoint Contact Center Specialist will facilitate call
EthicsPoint forwards information to UCO, who conducts investigation

Investigation/Resolution of Complaints

Coordinator/Deputy Coordinator designate person to do investigation

If student is complainant – will be investigated and resolved by Office of Student Conduct
Investigation/Resolution of Complaints (cont.)

Notice and opportunity to respond given to those alleged to have committed discrimination/harassment;

Meet with parties, interview witnesses, request written statements

Investigation/Resolution of Complaints (cont.)

Attempt to complete investigation within 60 days of receipt of complaint, if not complete provide a status of investigation within 60 days of receipt of complaint

Confidential record will be maintained – Coordinator/Deputy Coordinator

Complaints against Faculty Members

Should be referred to Dean, Coordinator or Deputy Coordinator, investigation rules apply

If involves grades, will be referred to UCO policy on this issue
Complaints against Faculty Members (cont.)

Investigator will provide findings and conclusions in writing to University Provost, Coordinator and Deputy Coordinator

Provost charged with decision regarding appropriate action

Complaints against Staff Members

Human Resources Department, Coordinator or Deputy Coordinator
Investigation rules apply
Investigator provides findings and conclusions in writing to Executive Vice President, Coordinator and Deputy Coordinator
Executive Vice President determines appropriate action

Confidentiality

Reasonable effort to protect privacy and confidentiality, consistent with need to investigate complaint; no complete confidentiality
Inform that complete confidentiality cannot be promised
Refer to EAP, and Student Counseling, not reporting a complaint though if only go to EAP or Student Counseling
Appeals for Code of Student Conduct Complaints
May appeal if believes that resolution did not rectify situation

Complaints against students, follow the Code of Student Conduct
wwwucoedu/student-affairs/conduct/forms-and-publications/code.asp

Required Procedures

This procedure is the Title IX grievance procedure

Retaliation is Prohibited
Individuals who:
• Report Discrimination or Unethical behavior
• Participate in an investigation of such reports
• Sustained a workers compensation injury
• Request FMLA
Retaliation (cont.)

Obligation to Report Retaliation Promptly

Failure to report can be basis for disciplinary action

Workplace Relationships

Romantic or Sexual Relationship between employees, supervisor/manager can create difficulties

If the relationship occurs such that it violates the antinepotism policy:
  a. create supervisor/subordinate relationship
  b. both working in same reporting structure
  c. actual conflict or appearance of a conflict

Workplace Relationships (cont.)

Duty to disclose relationship

If a manager or supervisor involved, mandatory that they report it

Upon disclosure, UCO will take all appropriate steps to bring into compliance
Questions & Answers
bjmaule@phillipsmurray.com
(405) 552-2453

THE END
REFERENCES

1 http://www.eeoc.gov/laws/statutes/titlevii.cfm

2 http://www.eeoc.gov/laws/statutes/epa.cfm

3 http://www.dol.gov/oasam/regs/Statutes/titleix.htm

4 http://www.eeoc.gov/laws/statutes/pregnancy.cfm


12 Hayut v. State University of New York, 352 F.3d. 733 (2nd Cir. 2003)


15 ADM-HUM-3, Minor Revision 2, Equal Employment Opportunity

16 ADM-HUM-33, Minor Revision 5, Non-Harassment Policy Statement

17 University-wide Policy, Complaint Procedure in case of Alleged Unlawful Discrimination or Harassment

18 ADM-HUM-6, Minor Revision 1, Retaliation is prohibited

19 ADM-HUM-8, Minor Revision 1, Workplace Relationships

20 ADM-HUM-20, Minor Revision 6, Anti-Nepotism in the Employment of Relatives
Policy ID: ADMI-HUM-3 Minor Revision 2

Title: Equal Employment Opportunity

Description: To establish what equal employment opportunity means.

Category: Human Resources

Applies to: Staff, faculty

Contact: Human Resources

Purpose: To establish the principle of Equal Employment Opportunity at the University.

Policy Statement: Equal Employment Opportunity has been, and will continue to be, a fundamental principle at the University of Central Oklahoma, where employment is based upon personal capabilities and qualifications without discrimination because of actual or perceived race, creed, color, religion, alienage or national origin, genetic information, ancestry, citizenship status, age, disability or handicap, gender, marital status, veteran status, or any other characteristic protected by applicable federal, state, or local laws.

Our leaders are dedicated to this policy and affirm a continuing commitment of embracing and expanding positive programs with respect to recruitment, hiring, placement, promotion, transfer, training, compensation, benefits, employee activities, and general treatment during employment and at termination, and as it relates to all other terms and conditions of employment.

The University will endeavor to make a reasonable accommodation to the known physical or mental limitations of qualified employees with disabilities unless the accommodation would impose an undue hardship on the operation of our business. An employee in need of assistance to perform job duties because of a physical or mental condition should advise his or her supervisor and Employee Relations and Development in the Offices of Human Resources.

The University will endeavor to accommodate the sincere religious beliefs of its employees to the extent such accommodation does not pose an undue hardship on University operations. Employees wanting to request such an accommodation should contact their supervisor and Human Resources.

The Office of Legal Counsel has overall responsibility for this policy and maintains reporting and monitoring procedures. Any employees with questions or concerns about equal employment opportunities in the workplace are encouraged to bring these issues to the attention of the Offices of Human Resources.

The University will not allow any form of retaliation against individuals who raise issues of equal employment opportunity. To ensure our workplace is free of artificial barriers, violation of this policy will lead to corrective disciplinary action as necessary, up to and including termination.

Glossary of Terms:

Legal
Citation:
Campus
Links:
FAQs:
Formerly known as:
Policy ID: ADM-HUM-33 Minor Revision 5

Title: Non-Harassment Policy Statement

Description: The University's commitment to providing a workplace free from unlawful harassment.

Category: Human Resources

Applies to: staff, faculty

Contact: Human Resources

Purpose: The University of Central Oklahoma is committed to providing a workplace that is free from unlawful harassment of any individual on the basis of any applicable protected classification including, but not limited to, race, color, gender, national origin, disability, religion, marital status, sexual orientation, or age. This includes, but is not limited to, sexual harassment.

Policy Statement: An employee should enjoy a working environment free of inappropriate harassment, including sexual harassment, perpetrated by a supervisor, employee, student, or third party (an individual who is not an employee but does business with the University, such as a customer, contractor, sales representative, or repair person).

The University will not tolerate sexual harassment, or any other type of harassment or discrimination because of an individual's protected characteristics as described above. In addition, the University will not tolerate any retaliation against any employee for reporting in good faith any type of unlawful harassment or discrimination or for participating in an investigation of any such report.

Any person encountered by employees as they perform their job is covered by this policy. This includes all applicants and employees regardless of position, title, grade, seniority or function, as well as clients, temporaries, visitors, students, parents, independent contractors and vendors. Employees are not expected to tolerate harassment by any of the individuals listed, or any other person they may encounter as a part of their jobs. No one is immune from this policy.

Furthermore, each employee of this University bears the responsibility to refrain from harassment, including sexual harassment, in the workplace. An individual employee who commits acts of harassment could be held liable for his or her individual conduct. It is the responsibility of all supervisors to make sure that the work environment is free from all forms of inappropriate harassment. Any employee's behavior that fits the definition of harassment constitutes misconduct which may result in disciplinary action up to and including dismissal. Inappropriate harassment could also subject the University and, in some cases, an individual employee to substantial civil penalties.

Sexual Harassment:

Unlawful sexual harassment can involve many different forms of conduct. It has been defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is either made explicitly or implicitly a term or condition of employment — in other words the person harassed is led to believe that he or she must "give in," and that it is part of the job;

- Submission to or rejection of such conduct is used as the basis for employment decisions (an example would be, "If you don't date me you'll never be promoted"); or,

- Conduct has the purpose or effect of unreasonably interfering with the work environment or creating an intimidating, hostile or offensive work environment.
Sexual harassment can be subtle or direct. It usually involves different genders, but harassment by people of the same gender is also prohibited. Sexually harassing behavior may include intentional physical conduct that is sexual in nature, sexual jokes and innuendo (innuendos include suggestive sexual comments), sexual advances or requests for sexual favors, propositions, verbal abuse of a sexual nature, commentary about an individual's body, sexual prowess or sexual deficiencies, leering, touching, sexually-based obscene comments or gestures, display of sexually suggestive objects or pictures, and any other type of physical, verbal, or visual conduct of a sexual nature.

Harassment can occur when one person does something for the purpose of annoying someone else. For example, if one employee engages in conduct intended to get a reaction out of someone else, or makes inappropriate comments about the person's race, sex, age, disability, nationality, accent, speech impediment, or the like, that conduct may constitute unlawful harassment or discrimination, and it violates this policy and will not be tolerated.

Unlawful sexual harassment may occur through various methods, including personal contact, in writing, over the telephone, via text message, through e-mail, and on the intranet or internet, or through social media. In addition, distributing sexually explicit or suggestive materials (to include cartoons) can constitute sexual harassment if the one who receives it is offended, or if someone whom you do not intend to see it does see it, and is offended. The means by which sexually harassing behavior is conducted does not change its inappropriateness.

An employee who either observes or believes herself or himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating the issue to the offended person, to his or her supervisor or other administration official, to Employee Relations and Development in the Offices of Human Resources, or to the Office of Legal Counsel. After-hours complaints may be made to Police Services. It is not necessary for the sexual harassment to be directed at the person making the complaint.

**Other Forms of Inappropriate Harassment:**

The University also prohibits harassment of individuals based on race, color, gender, national origin, disability, religion, marital status, sexual orientation, age or any other characteristic protected by law. Conduct has the purpose or effect of unreasonably interfering with the work environment or creating an intimidating, hostile or offensive work environment of any such individual is unlawful and will subject the offending person to disciplinary action, up to and including termination.

It is not necessary for the sexual harassment to be directed at the person making the complaint. An employee who either observes or believes herself or himself to be the object of harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating the issue to the offending person, to his or her supervisor or other administration official, or to Employee Relations and Development in the Offices of Human Resources.

**How to Report Harassment, Discrimination or Retaliation**

Allegations of sexual and other harassment, discrimination or retaliation may be reported in any manner that effectively communicates the message you desire to send. This includes reporting in writing, orally, by e-mail, letter, memo or note, or any other reasonable means. UCO encourages all reports to be made in writing in order to have a clear and complete account of your perception of the situation. The most beneficial written reports will include at least:

- The dates and times of all incidents of harassment, discrimination, or retaliation;
- The names of all harassers or discriminators and victims;
- A detailed factual description of the harassment, discrimination, or retaliation; and
- The names of all individuals present during the challenged conduct or who otherwise could corroborate or refute the facts alleged.
Reports should be made as soon as possible. UCO will not tolerate harassment, discrimination, or retaliation. Quick action to remedy such problems requires that UCO know of the problem as soon as possible.

**Investigations and Determinations**

In most cases, a prompt investigation will immediately follow the reporting of behavior believed to constitute harassment, discrimination, or retaliation in violation of this policy. Any such investigation will be designed to address the allegations made, but will usually include interviews of the persons directly involved and witnesses, along with review of any documentary items that tend to support or refute the allegations. UCO insists upon complete candor and honesty from all persons interviewed as a part of an investigation. Investigations will be kept as confidential as practical, but confidentiality cannot be guaranteed.

In instances where sufficient information is available, UCO will promptly make factual and disciplinary determinations about the challenging conduct. However, employees should keep in mind that some inappropriate behavior might not be reflected in documents or witnessed by other people. In those situations, individual credibility determinations will be made. These credibility issues should not discourage employees from reporting harassment or discrimination, but should illustrate the importance of providing documents, witnesses and other available information, if possible, to assist UCO in reaching its determination. Determinations will be based upon a totality of the circumstances then known to the University.

**False Claims**

Harassment, discrimination, and retaliation claims are very serious matters, in part because of the way they can affect people and their careers. Accordingly, while all good faith, legitimate claims must be reported, such claims must never be fabricated or lodged without the utmost sincerity. Any person found to have intentionally falsified a claim of harassment, discrimination, or retaliation, or who lodges a claim for malicious or improper reasons, may be subject to immediate discipline, up to and including discharge.

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**Glossary of Terms:**

<table>
<thead>
<tr>
<th>Legal Citation:</th>
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<tr>
<td>Campus Links:</td>
<td></td>
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<tr>
<td>FAQs:</td>
<td></td>
</tr>
<tr>
<td>Formerly known as:</td>
<td>Sexual Harassment Policy</td>
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</table>

**Approved on:** 03/01/2011  
**Effective date:** 03/01/2011  
**Keyword(s):** sexual, harassment, discrimination, retaliation, reporting  
**Last review date:** 09/02/2011  
**Date posted:** Mar 16 2011 4:24PM
Policy ID: University-wide Policy

Title: Complaint Procedure in Cases of Alleged Unlawful Discrimination Or Harassment

Description: Outlines the procedures for reporting and the investigations and resolution of discrimination or harassment complaints.

Applies to: Staff, faculty, student, department, visitor

Contact: Office of Legal Counsel.

Purpose:

Policy Statement:

I. STATEMENT OF POLICY

A. The University of Central Oklahoma (University) is committed to an inclusive educational and employment environment that provides equal opportunity and access to all qualified persons. The University will continue its policy of fair and equal employment and educational practices without discrimination or harassment because of actual or perceived race, creed, color, religion, alienage or national origin, genetic information, ancestry, citizenship status, age, disability or handicap, gender, marital status, veteran status, sexual orientation, gender identity, or any other characteristic protected by applicable federal, state, or local law. Discrimination or harassment in violation of this policy should be reported to the Affirmative Action Officer (Office of Legal Counsel) in person at 114 Lillard Administration, or by phone at (405) 974-3377 or fax at (405) 974-3807. After office hours or on holidays, the report may be made by contacting University Police Services at (405) 974-2345.

B. The intent of these procedures is to ensure that discrimination and harassment based on these characteristics does not take place in the University community. Should it take place, it is the goal that such discrimination or harassment be promptly reported to appropriate University officials designated to receive such complaints.

C. Any employee (faculty or staff), student, applicant for employment or admission, visitor, or other non-affiliated individual who believes that he or she has been subjected to any form of unlawful discrimination or harassment may make a complaint. Unlawful discrimination includes sexual harassment as well as harassment based on an individual’s membership in any other legally protected
category as stated above. The University will conduct a fair and impartial investigation of such complaints, with due regard for the rights of all parties. Retaliation against any individual who has made a complaint, or who has cooperated in the investigation of such a complaint, is unlawful and in violation of University policy. The purpose of these procedures is to ensure that all complaints are thoroughly and fairly investigated by authorized University officials who have the necessary expertise and training.

D. Any complaint should be referred to one of the individuals responsible for receiving or investigating such complaints. Any employee, other than those listed, who receives a complaint is responsible for directing the complainant or otherwise referring the complaint to the appropriate individual in a timely manner. All complaints, either written or verbal, must be referred to the appropriate office or official as set forth below.

II. DESIGNATION OF COORDINATORS

A. The University's Affirmative Action Officer/ Director of Equal Opportunity, and the Deputy Affirmative Action Officer/ Deputy Director of Equal Opportunity, are designated to coordinate and insure investigation of complaints arising under Title IX of the Educational Amendments of 1972 and Title VII of the Civil Rights Act. They are a part of the Office of Legal Counsel located in 114 Lillard Administration Building, 100 N. University Drive, Edmond, OK 73034. The telephone number is (405) 974-3377. The fax number is (405) 974-3807. Email complaints or inquiries regarding discrimination or harassment, or any issue involving Title IX or Title VII, may be sent to bmorelli@uco.edu or ekerr@uco.edu.

B. The University's Affirmative Action Officer/ Director of Equal Opportunity, and the Deputy Affirmative Action Officer/ Deputy Director of Equal Opportunity, are designated to coordinate complaints arising under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA). They are a part of the Office of Legal Counsel located in 114 Lillard Administration Building, 100 N. University Drive, Edmond, OK 73034. The telephone number is (405) 974-3377. The fax number is (405) 974-3807. Email complaints or inquiries regarding discrimination or harassment because of actual or perceived disability, or any issue involving Section 504 or the ADA, may be sent to bmorelli@uco.edu or ekerr@uco.edu.

C. Hereinafter, these individuals are referred to as the "Coordinator" and "Deputy Coordinator."

III. INITIATING A COMPLAINT

A. The process outlined in this section applies to all complaints of discrimination, except those brought by students on the basis of disability. Students who wish to
file a complaint alleging discrimination based on disability should file with Disability Support Services, in accordance with procedures set forth in section X of this document, "STUDENT GRIEVANCE PROCEDURE IN CASES OF ALLEGED DISABILITY DISCRIMINATION AND/OR HARASSMENT".

B. Any employee, student, applicant for employment or admission, visitor, or other non-affiliated individual who believes that unlawful discrimination or harassment has occurred may initiate a complaint by either meeting with the appropriate individual in one of the offices listed below, or by submitting a written complaint to that individual or office. The information provided in the complaint should be as specific as possible regarding the circumstances that precipitated the complaint. The complaint should include the dates and places of the incidents at issue, the individuals involved, the names of any witnesses, any efforts made to resolve the matter informally and their results, and any other pertinent information.

C. As stated in section II above, the University has designated a "Coordinator" and "Deputy Coordinator" for Title IX, Title VII, and Section 504 complaints. These individuals share the primary responsibility for the receipt, investigation, and resolution of complaints of discrimination and harassment.

1. Any employee, student, applicant for employment or admission, visitor, or other non-affiliated individual may initiate a complaint by contacting any of the individuals as follows:

   - Brad Morelli, "Title IX/Title VII/Section 504 Complaint Coordinator". Office of Legal Counsel, 114 Lillard Administration Building, 100 N. University Drive, Edmond, OK 73034. Phone: (405) 974-3377. Fax: (405) 974-3807. Email: bmorelli@uco.edu.
   - Elizabeth H. Kerr, "Title IX/Title VII/Section 504 Complaint Deputy Coordinator". Office of Legal Counsel, 114 Lillard Administration Building, 100 N. University Drive, Edmond, OK 73034. Phone: (405) 974-3377. Fax: (405) 974-3807. Email: ekerr@uco.edu.

D. Complaints by Students: In addition to contacting the persons listed in paragraph III.C.1. above:

1. Students may initiate a complaint of discrimination or harassment against another student by contacting the Office of Student Conduct.
2. Students may initiate a complaint of discrimination or harassment against a University employee, whether faculty or staff member, by contacting the Dean's office of the college where the harassment or discrimination is alleged to have occurred. The contact information for each college is listed below.
E. Complaints by Faculty or Staff: In addition to contacting the persons listed in paragraph III.C.1. above:

1. Faculty or staff members may initiate a complaint of discrimination or harassment against a student by contacting the Office of Student Conduct.
2. Faculty or staff members may initiate a complaint of discrimination or harassment against an employee by contacting the Human Resources Department. Employees in academic units, both faculty and staff, may initiate a complaint of discrimination or harassment against an employee by contacting the Dean’s office of the college where the discrimination or harassment is alleged to have occurred.
3. Applicants for employment or admission, visitors, or other non-affiliated individuals may initiate a complaint of discrimination or harassment by contacting those individuals listed in paragraph III.C.1. above.
4. Off-Site Locations: Any individual at an off-site location, such as ACM@UCO, may initiate a complaint of discrimination or harassment to any of the offices above as appropriate, or to the on-site director of the program.
5. After-Hours or Holiday Complaints: In the event any individual wishes to initiate a complaint of discrimination or harassment after regular University office hours, or when offices are closed for University holidays, the individual should contact the University of Central Oklahoma Police Services. Their telephone number is 405-974-2345.
6. The address and phone number for each of the offices where complaints of discrimination or harassment may be made are as follows:

- Brad Morelli, "Title IX/Title VII/Section 504 Complaint Coordinator". Office of Legal Counsel, 114 Lillard Administration Building, 100 N. University Drive, Edmond, OK 73034. Phone: (405) 974-3377. Fax: (405) 974-3807. Email: bmorelli@uco.edu.
- Elizabeth H. Kerr, "Title IX/Title VII/Section 504 Complaint Deputy Coordinator". Office of Legal Counsel, 114 Lillard Administration Building, 100 N. University Drive, Edmond, OK 73034. Phone: (405) 974-3377. Fax: (405) 974-3807. Email: ekerr@uco.edu.
- Director of Human Resources, 204 Lillard Administration Building, 100 N. University Drive, Edmond, OK 73034. Phone: (405) 974-2366.

DEANS of COLLEGES:

- College of Business Administration, Office of the Dean, 100 Business Building, 100 N. University Drive, Edmond, OK 73034. Phone: (405) 974-2426.
- College of Education & Professional Studies, Office of the Dean, 213 Education Building, 100 N. University Drive, Edmond, OK 73034. Phone: (405) 974-5701.
• College of Fine Arts and Design, Office of the Dean, 13 Evans Hall, 100 N. University Drive, Edmond, OK 73034. Phone: (405) 974-3771.
• College of Liberal Arts, Office of the Dean, 104 Liberal Arts Building, 100 N. University Drive, Edmond, OK 73034. Phone: (405) 974-5540.
• College of Math and Science, Office of the Dean, 208 Howell Hall, 100 N. University Drive, Edmond, OK 73034. Phone: (405) 974-2461.
• Jackson College of Graduate Studies, Office of the Dean, 404 Night University Center, 100 N. University Drive, Edmond, OK 73034. Phone: (405) 974-3341.

OTHER PROGRAMS:

• The Academy of Contemporary Music, Chief Operating Officer, ACM@UCO, 25 S. Oklahoma, Suite 400, Oklahoma City, OK 73104. Phone: (405) 974-4703.

F. In addition to the above methods to report discrimination or harassment, the Board of Regents of the Regional University System of Oklahoma, which governs the University, has established a "RUSO Tip Line" which is managed by EthicsPoint. The RUSO Tip Line allows concerns to be submitted anonymously.

1. An employee, student, applicant for employment or admission, visitor, or other non-affiliated individual may report incidents of discrimination or harassment online using the RUSO Tip Line. The complaining party should visit www.ruso.ethicspoint.com which is a secure server administered by EthicsPoint.

2. An employee, student, applicant for employment or admission, visitor, or other non-affiliated individuals may also report incidents of discrimination or harassment by calling toll-free 866-898-8438. An EthicsPoint Contact Center Specialist will facilitate the call and compile the required information from the complaining party.

3. EthicsPoint will forward the required information to designated RUSO and University officials who will then conduct an appropriate investigation and resolution.

4. An employee, student, applicant for employment or admission, visitor, or other non-affiliated individual is also encouraged to continue communicating any concerns directly to appropriate campus offices, as listed in paragraph IV.E.6. above.

IV. INVESTIGATION AND RESOLUTION OF COMPLAINTS

A. The individuals and offices available to receive complaints, as noted above, were selected to give all members of the University community the opportunity to
initiate a complaint in a place in which they will feel comfortable doing so. These individuals and offices have the responsibility, after speaking with the complainant and/or reviewing a written complaint, to ensure that the complaint is directed to the proper office or individual for investigation.

B. The Coordinator or Deputy Coordinator shall designate an appropriately trained individual to investigate complaints of unlawful discrimination or harassment.

C. If the individual accused of engaging in discrimination or harassment is a student, the complaint will be investigated and resolved by the Office of Student Conduct.

D. Notice of the complaint and an opportunity to respond will be given to all persons alleged to have violated the University's policies regarding discrimination or harassment. The investigation may otherwise involve meeting with the parties, interviewing witnesses, and requesting written statements from the parties.

E. The investigation should be completed promptly so that a decision can be rendered within 60 days of receipt of the complaint. If this is not possible, the investigator will inform the complainant of the status of the investigation within 60 days, the reason(s) for delay, and an estimated completion date for the investigation.

F. A confidential record of all complaints, including their disposition, will be maintained by the investigating unit. The Coordinator or Deputy Coordinator shall be informed of, and maintain a confidential record of, the nature of all complaints of discrimination or harassment investigated, the names of complaining parties and respondents, and the final disposition of all complaints.

V. COMPLAINTS AGAINST FACULTY MEMBERS

A. Any employee who receives a complaint against a faculty member will refer the complaint to the Dean of the faculty member’s college, or to the Coordinator or Deputy Coordinator. An investigator will be designated as provided for in paragraph IV.B. above.

B. If the complaint also involves matters such as grades, curriculum, etc., the investigator will inform the complainant of University policies designed to address those issues.

C. The investigator will provide findings and conclusions in writing to the University Provost, and the Coordinator or Deputy Coordinator. The Provost will determine what action, if any, is appropriate.
VI. COMPLAINTS AGAINST STAFF MEMBERS

A. Any employee who receives a complaint against a staff member will refer the complaint to the Human Resources Department, or to the Coordinator or Deputy Coordinator. An investigator will be designated as provided for in paragraph IV.B. above.

B. The investigator will provide findings and conclusions in writing to the Executive Vice President and the Coordinator or Deputy Coordinator. The Executive Vice President will determine what action, if any, is appropriate.

VII. CONFIDENTIALITY

A. Every reasonable effort will be made to protect the privacy and confidentiality of all parties during the investigation, consistent with and subject to the University's need to investigate the complaint and/or implement decisions made in order to resolve the complaint. It must be understood that in order to permit the University to carry out its obligation to investigate all complaints fairly, and to ensure that non-discrimination is a reality within the University community, no representative of the University is authorized to promise complete confidentiality to any person who possesses information relevant to the investigation of a complaint, including the complainant.

B. Any individual who requests confidentiality before disclosing a complaint must be informed that because any apparent violation of University policy must be addressed, complete confidentiality may not be possible. An individual who insists on confidentiality as a condition of disclosing a complaint may be advised of the opportunity to consult with the Employee Assistance Program (EAP) or Student Counseling Center, with whom such matters may be discussed in confidence. Consulting with EAP or the Student Counseling Center does not constitute the initiation of a complaint. Medical and mental health professionals are not representatives of the University for this purpose and are not authorized to investigate or respond to complaints.

VIII. APPEALS FOR CODE OF STUDENT CONDUCT COMPLAINTS

A. In the event that either the complainant or accused believe that the resolution of the complaint has not rectified the situation, an appeal may be made.

B. In the case of complaints against students, the process for appeal is governed by The Code of Student Conduct found here: www.uco.edu/student-affairs/conduct/forms-and-publications/code.asp.

IX. REQUIRED PROCEDURES
A. These procedures shall constitute the grievance procedure mandated by the regulations that implement Title IX of the Education Amendments of 1972. For employees, the grievance procedure mandated by the regulations implementing Section 504 of the Rehabilitation Act of 1973.

B. The procedure for student grievances under Section 504 is set forth in section X, STUDENT GRIEVANCE PROCEDURE IN CASES OF ALLEGED DISABILITY DISCRIMINATION AND/OR HARASSMENT.

X. STUDENT GRIEVANCE PROCEDURE IN CASES OF ALLEGED DISABILITY DISCRIMINATION AND/OR HARASSMENT

A. Students who require accommodations must provide sufficient documentation to the University's Disability Support Services (DSS) office located in 309 Nigh University Center.

B. Any student who believes that he or she has been harassed or discriminated against as a result of a disability by any UCO department or organization, or faculty or staff member working in and for the university, may register a grievance by submitting an Incident Report Form to the Disability Support Services Department (DSS). DSS will furnish the Incident Report Form upon request.

C. This policy does not regulate curricular modifications, which are subject to policies contained in the Academic Policy Manual found online at www.uco.edu/academic-affairs.

D. This policy regulates allegations of discrimination or harassment as a result of a disability as the allegations regard:

1. Physical, programmatic, or attitudinal barriers;
2. Disputed requested accommodations;
3. Contested recommended accommodations; or
4. Similar incidents which the student alleges to constitute discrimination or harassment by any UCO department or organization, or faculty or staff member working in and for the university.

E. DSS shall forward the Incident Report Form to the Section 504 Coordinator or Deputy Coordinator identified in section II above. The allegations of the Incident Report Form shall be investigated by the Section 504 Coordinator or Deputy, who will provide findings and conclusions in writing to the following University officials:

1. Matters involving academic accommodations, or allegations of discrimination or harassment by faculty members, shall be forwarded to
the University Provost. The Provost shall determine what action, if any, is appropriate.

2. Matters involving physical barriers, or allegations of discrimination or harassment by staff members, shall be forwarded to the Executive Vice President. The Executive Vice President shall determine what action, if any, is appropriate.

3. All other matters shall be submitted to the Vice President for Student Affairs for decision and action as is appropriate.

F. Any party who disagrees with the decision and action taken under paragraph X.E. above shall have an appeal to the Disabilities Appeal Board (Board). The Board shall hear the appeal in accordance with its policies and procedures. The decision of this Board is final.

G. A student may also file a complaint with any of the following agencies:

1. Oklahoma Office of Disability Concerns, 2401 NW 23rd, Suite 90, Oklahoma City, OK 73107-2423. Phone: (800) 522-8224 (V/TTY). Fax: (405) 522-6695.

2. U.S. Department of Education, Office for Civil Rights, 8930 Ward Parkway, Suite 2037, Kansas City, Missouri 64114-3302; Telephone: (816) 268-0550. Fax: (816) 823-1404. Email: OCR.KansasCity@ed.gov.

3. Office of the Americans with Disabilities Act, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Ave. N.W., Washington, DC 20530. Phone: (800) 514-0301 (V) and (800) 514-0383 (TTY).

H. Any faculty member who believes an accommodation requested by Disabilities Support Service is not reasonable may file an appeal with the Section 504 Coordinator or Deputy identified in section II above.

Glossary of Terms:

Legal Citation(s):

Campus Links:

FAQs:

Formerly Known As:

Approved on: 09/12/2012

Effective Date: 09/12/2012
Title: Retaliation is Prohibited
Description: To establish the policy of prohibited retaliation.
Category: Human Resources
Applies to: staff, faculty
Contact: Human Resources

Purpose: The University prohibits retaliation and strongly urges the reporting of any retaliation.

Policy Statement: The University prohibits retaliation against any individual. This includes, but is not limited to,

- Individuals who report discrimination or harassment
- Individuals who report what is believed to be unethical behavior
- Individuals who participate in an investigation of such reports
- Individuals who sustain workers’ compensation related injuries
- Individuals who request Family Medical Leave or a Reasonable Accommodation

Retaliation against an individual in any form is a serious violation and will be subject to disciplinary action, up to and including termination from employment.

Complaint Procedure - Reporting Retaliation

The University of Central Oklahoma strongly urges the reporting of any retaliation, regardless of the offender’s identity or position. Individuals who believe they have experienced or witnessed, or otherwise have knowledge of retaliation should report it immediately. Reports and complaints should be filed with an employee’s immediate supervisor (unless he/she is the person the complaint is against), any member of administration, or Employee Relations and Development in the Offices of Human Resources. Under any circumstances, individuals should not feel obligated to file their complaints with their immediate supervisor first before bringing the matter to the attention of any one of the other University’s designated representatives identified above.

IMPORTANT NOTICE TO ALL EMPLOYEES:
Employees who have experienced or witnessed conduct or actions they believe is contrary to this policy have an obligation to take advantage of the University’s complaint procedure. An employee’s failure to fulfill this obligation limits the University’s ability to correct inappropriate conduct, and could affect the employee’s rights in pursuing legal action. Note: federal, state and local discrimination laws establish specific time frames for initiating a legal proceeding pursuant to those laws.

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of wrongdoing. While no time limit has been established, the University requires the prompt reporting of complaints or concerns so that rapid and constructive action can be taken. The University of Central Oklahoma will make every effort to stop alleged retaliation, but can only do so with the cooperation of its employees.

Glossary of Terms:

Legal Citation:
Policy ID: ADM-HUM-8 Minor Revision 1

Title: Workplace Relationships

Description: University policy concerning workplace relationships

Category: Human Resources

Applies to: staff, faculty

Contact: Human Resources

Purpose: Consenting romantic or sexual relationships between employees, and especially between a supervisor/manager and an employee, may at some point lead to complications and significant difficulties for all concerned — the employee(s), supervisor/manager, co-workers, and UCO.

Policy Statement: If a romantic or sexual relationship between employees occurs that violates the anti-nepotism policy, the involved employees must disclose the existence of the relationship to Employee Relations and Development in the Offices of Human Resources. If the relationship is between a supervisor/manager and an employee, it shall be the responsibility and mandatory obligation of the supervisor/manager to promptly disclose the existence of the relationship. The employee may make the disclosure as well, but the burden of doing so shall be upon the supervisor/manager.

Upon being informed or learning of the existence of such a relationship, UCO may take all steps that it, in its discretion, deems appropriate, especially as it relates to bringing the situation into compliance with the provisions of anti-nepotism, even if one or both of the employees must leave the University's employment. This shall apply without regard to gender and without regard to the sexual orientation of the participants in a relationship of the kind described.

Glossary of Terms:

Legal Citation:
Campus Links:
FAQs:
Formerly known as:

Approved on: 05/31/2011
Effective date: 05/31/2011

Keyword(s): workplace relationships, romantic, sexual
Last review date: 07/28/2011

Date posted: Jun 28 2011 1:51PM

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**UNIVERSITY OF CENTRAL OKLAHOMA**

**Policy ID:** ADMI-UM-20 Minor Revision 6

**Title:** Anti-Nepotism in the Employment of Relatives

**Description:** Hiring relatives of current UCO employees

**Category:** Human Resources

**Applies to:** staff, faculty

**Contact:** Human Resources

**Purpose:** Policy regarding the employment of employee's relatives.

**Policy Statement:** Members of an employee's immediate family will be considered for employment on the basis of their qualifications. Immediate family may not be hired, however, if employment would:

- Create a supervisor/subordinate relationship with a family member;
- Result in both parties working within the same reporting structure (i.e. the same director or chair); or
- Create either an actual conflict or the appearance of a conflict of interest, at the discretion of administration.

This also applies when considering assignment, transfer, or promotion of an employee. For the purpose of this policy, immediate family includes spouse or significant other, parent, child, sibling, in-law, aunt, uncle, niece, nephew, cousin, grandparent, grandchild, or other members of the immediate household regardless of the actual relationship to the employee.

Exception requests should be submitted in writing to Employee Relations and Development in the Offices of Human Resources. Exception requests for faculty should be submitted directly to the Provost. Requests must detail the relationship and impending reporting structure, and the argument why a waiver should be considered. Specifically, address how the employment of all involved individuals will benefit the institution beyond the complexities such arrangements create — the process variances that will have to be made to accommodate such a waiver, as an example.

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**Glossary of Terms:**

- Legal Citation:
- Campus Links:
- FAQs:
- Formerly known as:

**Approved on:** 12/01/2005

**Effective date:** 12/01/2005

**Keyword(s):** relative, related, kinship, hiring, promotion, salary, retention, nepotism, employment

**Last review date:** 07/28/2011

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