

Office for Institutional Equity
Policy on Prohibited Discrimination, Harassment, and Related Misconduct
Q&As

Q. A faculty member or employee believes that they were discriminated against or harassed based on race, color, national origin, sex, gender, gender identity, gender expression, sexual orientation, religion, genetic information, age, disability, or veteran status. What can they do?

A. The individual can discuss the matter confidentially with the Faculty Ombuds or the Personal Assistance Service. If they want to pursue the matter or explore filing a complaint, they can contact [OIE](#); [Human Resources Staff and Labor Relations](#); a department supervisor, manager or director (other than the individual or individuals they believe made the decision); department chair; school dean; or entity HR leader. They will then learn their options for informal resolution under Section VI of the Procedures or filing a formal complaint under Section VII. Whichever office receives the report will make sure that the matter is handled appropriately.

In addition, or instead, a faculty member with a concern or complaint about discrimination or harassment based on the above characteristics can use the procedures in Appendix N of the Faculty Handbook: Faculty Ombuds and Faculty Hearing Committee.

Q. An undergraduate, graduate, or professional student believes that they were discriminated against or harassed based on one of these protected characteristics by a faculty member. What can they do?

A. The student can discuss the matter confidentially with the Student Ombudsperson, CAPS, Student Health, the Women's Center (in cases of sexual misconduct), or clergy acting in their professional capacity. If they want to pursue the matter, they can contact [OIE](#); the department chair; school dean; [Harassment Prevention Advisor](#); or academic advisor. They will then learn their options for informal resolution under Section VI of the Procedures or filing a formal complaint under Section VII. Again, whichever office receives the report will make sure that the matter is handled appropriately.

Q. A faculty member, employee, or student believes they were discriminated against or harassed by a student based on one of the protected characteristics mentioned above. What can they do?

A. In addition to the confidential resources mentioned above, the individual can contact the [Office of Student Conduct, OIE, Harassment Prevention Advisor, or other official in the accused student's school or college.](#)

- [Reports in which the accused student is an undergraduate will be handled by OSC;](#)

- Reports in which a graduate or professional student is accused of sexual misconduct will also be handled by OSC;
- Reports of other types of discrimination or harassment by a graduate or professional student will be handled either by the accused student's school or college or by OSC.

Once again, whichever office receives the report will make sure that the matter is handled appropriately.

Q. When does the Policy apply to conduct that occurs off university or health system property?

A. Examples of off-campus university or health system-related activities covered by the Policy include university-sponsored study away programs, research facilities (including off-site facilities), field sites, and internship and externship programs. It also includes participation in and activities during conferences, workshops, and symposia.

Whether the Policy applies to conduct occurring off university or health system property that is not part of university or health system-related activity will depend on factors such as the seriousness of the alleged conduct, the risk of harm involved, whether the parties are members of the campus community, and whether the off campus conduct is part of a series of actions that occurred both on and off campus.

Q. The Policy prohibits discrimination and harassment based on race, color, national origin, sex (including pregnancy), gender, gender identity, gender expression, sexual orientation, religion, genetic information, age, disability, or veteran status. What should members of the Duke community do if they have workplace or academic concerns not covered by the Policy?

A. Here are some examples of workplace or academic concerns not covered by the Policy and possible resources:

- A. Nurses Jack and Chrissy report to Janet. Janet is rude to them -- she routinely interrupts them during staff meetings, micromanages their work, and refers to them as her "dumb minions." While rudeness not based on race, sex, or other protected characteristic is not a violation of the Policy, ***Jack and Chrissy may report their concerns within their departmental administrative structure and/or to departmental Human Resources, their entity HR leader, or [Staff & Labor Relations in Human Resources](#).***
- Dr. Jones makes his graduate students do push-ups when they are late to meetings. He mocks them when they make suggestions, and routinely makes them work on the weekends. Annie, one of the graduate students, wants to report the situation. While this behavior does not violate this Policy unless it is based on a protected characteristic, it may violate some departmental policy or otherwise be of concern to the department. ***Annie may seek help from her academic advisor (unless that is Dr. Jones), department chair (again, unless Dr. Jones is the chair), division dean, and/or the Duke Student Ombudsperson for the [University](#) or the [Medical School](#).***

- Darla, a professor, receives a letter from Greg, the department chair, informing her that he is opposing her application for tenure. Greg explains in the letter that he and other faculty believe Darla has a poor research record. Darla believes she was denied tenure because she does not socialize with others in the department. ***Darla may seek help from her division dean and/or the [Faculty Ombudsperson/Faculty Hearing Committee](#).***
- Fred and Ginger, lab technicians, were dating at work and recently broke up. Since their breakup, they frequently yell at each other, call each other names, refuse to work together on projects, and waste time complaining about each other to their coworkers. Judy, a lab technician, complains that Fred and Ginger's breakup is creating a hostile environment in the lab. ***Judy and her coworkers may see help from their departmental administrative structure, departmental Human Resources, entity HR leader, and/or [Staff & Labor Relations in Human Resources](#).***

Q. What are some examples of prohibited discrimination?

A. Discrimination can include decisions and conduct affecting:

- An employee's or employment applicant's access to employment or conditions and benefits of employment (e.g., hiring, advancement, assignment);
- A student's or admission applicant's ability to participate in, access, or benefit from educational programs, services, or activities (e.g., admission, academic standing, grades, assignment, campus housing);
- An authorized volunteer's ability to participate in a volunteer activity; or
- A guest's or visitor's ability to participate in, access, or benefit from the University's programs.

Q. What are some examples of unwelcome conduct that could create a hostile environment if sufficiently severe, persistent, and/or pervasive and based on a protected status?

A. Examples include:

- Questioning about intimate or personal matters outside the scope of work or learning
- Unwelcome touching or physical acts not related to work or learning
- Negative comments or conduct regarding an individual's race, color, religion, sexual orientation, gender identity, age, disability, etc., e.g.:
 - racial epithets or ethnic slurs
 - comments about an individual's sexual orientation religious beliefs, or other offensive or derogatory comments
 - verbal or physical abuse based on a protected status, including sexual harassment, sexual violence, and sexual exploitation
- Sending e-mails or other social media that contain demeaning or offensive messages, images, or language
- Jokes about an individual's age, disability, country of national origin, color, sexual orientation, religion, gender identity, etc.

Q. What are some examples of sexual exploitation?

A. Examples include:

- Threatening to disclose an individual's sexual orientation, gender identity, or gender expression
- Observing others' nudity or sexual activity or allowing another to observe the same, without the knowledge and consent of all parties involved
- Non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved
- Knowingly exposing another individual to a sexually-transmitted infection, without the individual's knowledge
- Knowingly failing to use or interfering with contraception without the other party's knowledge
- Inducing incapacitation for the purpose of taking sexual advantage of another person

Q. Is there additional guidance that can help me recognize prohibited discrimination, harassment, or related misconduct?

A. Consistent with the definitions provided in Section IV of the Policy, conduct that constitutes discrimination, harassment, or related misconduct:

- May be blatant and involve an overt action, threat, or reprisal; or may be subtle and indirect, with a coercive aspect that is unstated but implied.
- May or may not include intent to harm.
- May not always be directed at a specific target.
- May be committed by anyone, regardless of protected status, position, or authority. While there may be a power differential between the complainant and the respondent – perhaps due to differences in age or educational, employment, or social status – discrimination, harassment, or related misconduct can occur in any context.
- May be committed by a stranger, an acquaintance, or someone with whom the complainant has a current or previous relationship, including a romantic or sexual relationship.
- May be committed by or against an individual or by or against an organization or group.
- May occur in the classroom, in the workplace, in residential settings, or in any other setting.
- May be a pattern of behavior or, if sufficiently severe, a one-time event.
- May be committed in the presence of others, when the complainant and respondent are alone, or through remote communications, including email, text messages, or social media.
- May take the form of threats, assault, property damage, economic abuse, and violence or threats of violence.
- May include harassing or retaliatory behavior directed to someone associated with the complainant or the respondent.

Q. How do I contact emergency law enforcement, medical, and crisis response resources?

A.

Law Enforcement	Medical Providers & Crisis Response
<p>Duke University Police Department https://police.duke.edu/services/index.php 919-684-2444 DUPD will help <i>any individual</i> get to a safe place and will provide transportation to the hospital, coordination with outside law enforcement, and information about the University’s resources and complaint processes. • Provides services to all members of the Duke community</p>	<p>Student Health Services https://studentaffairs.duke.edu/studenthealth 919-681-9355, 919-966-3820 (nurse advice line) • Confidential care for <i>students</i> • Screening and treatment of sexually transmitted infections (STIs) • Emergency contraceptives • Provides services to undergraduate, graduate, and professional students</p>
<p>Durham City Police Department https://durhamnc.gov/149/Police-Department 919-560-4427, option 0 • Provides services to <i>all members</i> of the Durham City community</p>	<p>Duke University Hospital Emergency Room https://www.dukehealth.org/locations/emergency-room-duke-university-hospital 919-684-8111 • Confidential medical care for <i>students, faculty, and staff</i> • Sexual assault exams/evidence collection • After-hours medical care • Screening and treatment of STIs • Emergency contraceptives • Provides services to any Duke community member</p>
<p>Durham County Sheriff’s Office 919-560-0900 • Provides services to <i>all members</i> of the Durham County community • For incidents occurring in other locations, contact local police for that location</p>	<p>Office of Gender Violence Prevention and Intervention, Duke Women’s Center studentaffairs.duke.edu/wc/gender-violence 919-684-3897 • Confidential counseling and support for <i>students</i> of all genders who are victims of sexual and dating violence • Information, support, and accompaniment regarding medical treatment, reporting options, academic and residential supports, and referrals • Provides services to undergraduate, graduate, and professional students</p>
	<p>Counseling & Psychological Services Studentaffairs.duke.edu/caps 919-660-1000</p>

	<ul style="list-style-type: none"> • Confidential care for <i>students</i> • Individual and group counseling and referral • Provides services to <i>undergraduate, graduate, and professional students</i>
	<p>DukeReach https://studentaffairs.duke.edu/dukereach1 919-681-2455 (business hours)</p> <ul style="list-style-type: none"> • Provides support to <i>students</i> in crisis, including those with physical or mental health concerns or behavioral issues, • <i>Not</i> confidential • Provides services to undergraduate, graduate, and professional students • After hours: Dean on Call, 919 970 4169
	<p>Personal Assistance Service http://pas.duke.edu/ 919-416-1727; for Duke Raleigh Hospital employees, 800-327-2251</p> <ul style="list-style-type: none"> • Confidential, short-term counseling and referrals • Provides services to <i>faculty and staff</i>
	<p>Durham Crisis Response Center http://www.durhamcrisisresponse.org/ 919-403-6562</p> <ul style="list-style-type: none"> • Confidential counseling and support for <i>students, faculty, and staff</i> affected by sexual violence, relationship violence, and stalking • Personal and court advocacy • Accompaniment to emergency room, police, and court • Short-term emergency shelter • Provides services to all members of the Duke and Durham communities

Q. The Policy states that participants in the complaint process are encouraged to respect the confidentiality of the process and discuss the matter only with those persons with a “genuine need to know.” Can I discuss the matter with family or friends?

A. Complaints of discrimination or harassment often involve sensitive matters. For that reason, the Policy encourages those involved with the process to limit their discussion of the matter to those involved in the complaint process. The parties can also discuss the matter with family or

friends who are providing them with support in the complaint process, while requesting that the support individuals not discuss the matter with anyone else.

Q. What happens when a complaint is filed?

A. Individuals are not required to follow any “chain of administration” or “chain of command” in order to file a complaint.

- Complaints can be filed with the [Office for Institutional Equity \(OIE\)](#); [Human Resources Staff and Labor Relations](#); a department supervisor, manager or director; department chair; school dean; academic advisor; and (for students) a Harassment Prevention Advisor (HPA). All such reports will be shared with OIE. *Complaints against Duke students should be submitted to the [Office of Student Conduct](#).*
- Complaints must be filed no more than one year after the most recent conduct alleged to constitute discrimination, harassment or related misconduct. For complaints filed after a year, OIE will make determinations on a case-by-case basis as to whether to process them.
- After the complaint is accepted for investigation, OIE will assign the complaint to two investigators. The investigators will conduct the investigation, manage the complaint handling process, make findings of fact, and determine whether the challenged decision or conduct is a violation of the Policy. The investigation process will generally take no longer than 45 business days from the date the complaint is put into writing. The investigators will let the parties know if the investigation will take longer.
- All parties will have an opportunity to provide information during the investigation. This information will be shared with the parties.
- The parties are allowed to have an advisor of their choosing present at the meetings with the investigator. Witnesses or potential witnesses may not serve as advisors. The advisor is limited to quietly conferring with the complainant or respondent through verbal or written correspondence, and should not be disruptive to the investigation process.
- Upon completion of the investigation, the investigators will make a determination as to whether there is sufficient information to establish a violation. The investigators will attempt to notify both parties of their determination at the same time.
- OIE will determine what actions are necessary to correct the effects of any violation. In consultation with OIE, the responsible official will determine the appropriate disciplinary action(s) or sanction(s). The responsible official is the individual with authority to impose sanctions or disciplinary or corrective actions. For example, for employees, the responsible official in most cases will be the respondent’s second-level manager or supervisor.
- OIE will let the parties know of any sanctions, discipline, and remedies, as appropriate”
- Either party has the right to appeal the determination of the investigation as to whether there is a Policy violation if they believe that:
 - The determination and/or findings are clearly erroneous
 - They have new information not reasonably available at the time of the investigation that could affect the findings or determination
 - There were procedural error(s) that affected the investigator’s decision

Appeals must be in writing and identify the grounds for the appeal. They are to be submitted to the Vice President of the [Office for Institutional Equity](#) within five days of receipt of the investigators' decision.

Q. How does the Policy relate to other Duke policies and procedures applicable to faculty and staff?

A. Complaints of discrimination and harassment involving faculty can be brought before the [Faculty Hearing Committee](#). Staff may be able to challenge sanctions imposed on them for discrimination or harassment through the [Dispute Resolution Process](#). The procedures applicable to the Policy do not affect the rights of faculty and staff under these procedures. For example:

- A complaint investigation under the Complaint Handling Procedures results in a finding that a tenured professor is responsible under the Policy for discrimination or harassment, with a recommendation for initiation of termination proceedings. What options does the professor have should they wish to contest the outcome?
 - The professor can use the appeals process described in Section VIII of the Procedures.
 - In addition, or instead, and particularly if the responsible official accepts the recommendation to initiate termination proceedings, the professor can use the procedures described in [Appendix N of the Faculty Handbook, Faculty Ombuds and Faculty Hearing Committee](#).
- A complaint investigation under the Complaint Handling Procedures results in a finding that an hourly or monthly employee is responsible for discrimination or harassment, with a recommendation for dismissal.
 - The employee can use the appeals process in Section VIII to challenge the finding of responsibility.
 - In addition, or instead, if the responsible official accepts the recommendation for dismissal, the employee may be able to challenge that decision under the [Dispute Resolution Process](#).