

ASU
ARIZONA STATE UNIVERSITY

July 31, 2018

VIA ELECTRONIC MAIL

(REDACTED)

Dr. Lawrence Krauss
School of Earth & Space Exploration
Arizona State University

Dear Dr. Krauss:

The Determinations on the harassment complaints filed against you are enclosed. I received two investigative reports from the Office of Equity and Inclusion. Each investigation found that certain of your actions violated the University's policy on Prohibition against Discrimination, Harassment or Retaliation (ACD 401) and the University's policy on Code of Ethics (ACD 204-01).

Your behavior as found in the determinations is unprofessional, reflects a failure of leadership and is extremely disappointing. I have referred these determinations to the Dean of the College of Liberal Arts and Sciences for appropriate responsive action. You will hear directly from him.

All parties who make complaints or participate in an investigation are protected from retaliation. If you have any concern related to retaliation, please report it to the Office of Equity and Inclusion immediately. A link to the policy prohibiting retaliation is included here.

<https://www.asu.edu/aad/manuals/acd/acd401.html>

Sincerely,



Mark Searle
Executive Vice President and University Provost

Enclosures:

- Determinations
- ACD 401 (revised 5/23/2016)
- ACD 401 (revised 3/1/2015)
- ACD 401 (revised 7/1/2011)
- ACD 401 (revised 6/8/2007)
- ACD 204-01 (revised 7/1/2011)

**OFFICE OF THE EXECUTIVE VICE PRESIDENT AND PROVOST
OF THE UNIVERSITY**

300 EAST UNIVERSITY DRIVE
PO Box 877805, Tempe, AZ 85287-7805

(REDACTED)

EFTA00807199

July 31, 2018

DETERMINATION OF COMPLAINT OF VIOLATION OF ACD 401

The Office of Equity and Inclusion (OEI) is charged with the responsibility for investigating potential violations of the University's policies prohibiting discrimination, harassment and retaliation, ACD 401: Prohibition Against Discrimination, Harassment and Retaliation <https://www.asu.edu/aad/manuals/acd/acd401.html>. OEI received a complaint from an external party (Reporting Party) that a male professor (Respondent) had touched the breast of another female attendee at a convention while the female was taking a selfie photograph of the two.

Pursuant to the Complaint and Investigation Procedure, P20, <https://www.asu.edu/policies/procedures/p20>, OEI initially opened an inquiry into this allegation in July 2017. OEI concluded at that time that there was insufficient evidence to find that any violation of ACD 401 had occurred. OEI re-opened its review of this allegation in February 2018, because new witnesses to the alleged underlying event were identified. The Provost has reviewed the investigation conducted by OEI and concurs with its conclusion, using the preponderance of the evidence standard, that the Respondent's conduct violated ACD 401. Responsive action will be taken.

The incident occurred on November 26, 2016, while the Respondent was attending an overseas convention for which he was an invited speaker. The University funded Respondent's airfare travel from Canberra to Melbourne, Australia where the convention was held and Respondent received per diem reimbursement on the day of the incident, the prior day and the subsequent day.

The incident occurred during a gala reception and dinner at the end of the first day of the convention. Respondent had given his presentation during the first day. An unnamed female asked to take a selfie photograph with the Respondent. The photo shows the Respondent's right arm and hand coming over the female's shoulder but his hand is in mid-air. The female told OEI, that after the photo was taken the Respondent grabbed her right breast with his right hand. She reported that she immediately addressed it on the spot with the Respondent to let him know that she was not okay with his action. According to the female, the Respondent told her "Don't post that to Facebook." The Respondent, however, denied having touched the female's breast and denied making the statement about Facebook. When looking at the redacted photograph¹ Respondent tried to recall why his arm would have been raised. He suggested that perhaps [REDACTED] begun to lose her balance while taking the photograph and [REDACTED] touched her arm to help steady her. Alternatively, the Respondent suggested that his hand might have been raised to protect his eyes from an anticipated flash of the camera.

I accept the finding of OEI that Respondent did grab the right breast of the woman in the photograph based upon the consistent information provided by the female involved in the incident, two guests at the gala reception and dinner who actually witnessed the incident as it occurred from a respective

¹ The Reporting Party provided OEI with a redacted photograph in July 2017. The Reporting Party had been given permission to share the photograph with OEI by the woman who had taken the selfie, so long as the woman's face was first redacted so as to remain anonymous.

distance of 20 feet and 10 to 15 feet, and two other guests who did not witness the incident but who were individually told about the incident by the unnamed female in the photograph the evening the incident occurred. The two witnesses who directly witnessed the incident did not observe the woman being unsteady on her feet. One described the female as body checking the Respondent after the touching occurred. The second individual observed the female react with shock and physically move away from the Respondent. One of these witnesses, the Reporting Party, spoke with the unnamed woman after the media outlet story ran and she asked the unnamed woman about the Respondent's quoted statement that he often puts his hand up in front of a camera if the flash on the camera is being used. The Reporting Party stated that the unnamed woman had said that the phone that she owned at the time did not have the capability for a flash when using the front facing camera in "selfie" mode, however, I note that OEI's report does not indicate whether Respondent was aware of that information. While Respondent may from time to time raise his hand to shield his eyes from a camera flash, I do not find that explanation persuasive against the weight of the evidence from the other witness statements. I also note that one attendee who witnessed the conduct and two attendees who directly heard from the female about the conduct respectively described her demeanor after the incident as being "annoyed or distracted," "frazzled and troubled," and "shocked."

The female involved in the incident did not make a report to the convention organizers about the incident and declined to participate in OEI's initial review of the matter or to speak to the media outlet. When she did speak with OEI in March 2018, she stated the information described above and also that she did not feel victimized, felt it was a clumsy interpersonal interaction and thought she had handled it in the moment. She had not wanted her friend to make a report of it. She also stated to the OEI investigator that the incident did not merit the man losing his career.

In the course of discussing the foregoing incident with OEI, the Reporting Party also commented on a second matter in which she felt Respondent had made an inappropriate comment.² I do not find that the preponderance of the evidence substantiates an ACD 401 policy violation on this unrelated matter.

It is the policy of ASU to provide an environment free of discrimination, harassment or retaliation for the entire university community and the University expressly prohibits discrimination, harassment or retaliation by its employees. ACD 401 provides that "inappropriate conduct need not raise to the level of a violation of federal or state law to constitute a violation of this policy and to warrant disciplinary action." ACD 401 defines sexual harassment as "unwelcome behavior or conduct of a sexual nature

² The Reporting Party stated that the Respondent joined a photograph with her and another female attendee at a convention while making a comment about "girl on girl action." There are two photographs of this matter – the first one depicts the Reporting Party and the other attendee who has a lipstick kiss on her left cheek and whose right arm is shown extending outward but is cut off by the frame of the photograph. The second photograph depicts Respondent joining the two women. I do not agree that he "photobombed" the picture as OEI concluded. The woman with the lipstick kiss on her cheek is smiling similarly in both photos and she has her right arm around Respondent. The Reporting Party has a slightly different look on her face but I don't find that it is an intentional grimace, as the Reporting Party stated. It is just as likely a bad photograph of the Reporting Party. Respondent denied making the alleged comment. The other female attendee in the photo had no specific recollection of anything being said by the Respondent. She did recall, however, the Reporting Party making a throw away comment of how she could not stand Respondent/didn't like him. To the extent that the Reporting Party's expression purposefully changed, that is another possible reason for it.

(including unwelcome sexual advances or activity), which is sufficiently severe or pervasive as to create an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in university-sponsored programs or activities.”

In this case, the University provided funding support for Respondent, in the form of in-country airfare and per diem reimbursements, as he was an invited speaker at the convention hosted by a third party. While the female who was the subject of the non-consensual touching was not a student or employee of the University, she was an attendee at an academic conference at which the Respondent, as a representative of the University, was a featured speaker. The inappropriate behavior was also witnessed by other conference attendees. The evidence supports the conclusion that Respondent’s conduct created an offensive environment for academic pursuits by the unnamed female attendee as well as other conference attendees. Respondent’s conduct also violates the Code of Ethics (ACD 204-01) which requires a faculty member “[t]o conduct one’s public and private lives so as to avoid bringing dishonor to oneself and the university” under Responsibilities to the Community and to not engage in “[h]arassment as explained in . . . and ACD 401, ‘Nondiscrimination, Anti-Harassment, and Nonretaliation’ under Responsibilities to Research, Scholarship, and/or Creative Activities.

Responsive action will be taken to prevent a recurrence of this conduct.

This Determination concludes the complaint review process.

DETERMINATION OF COMPLAINT OF VIOLATION OF ACD 401

The Office of Equity and Inclusion (OEI) is charged with the responsibility for investigating potential violations of the University's policies prohibiting discrimination, harassment and retaliation, ACD 401: Prohibition Against Discrimination, Harassment and Retaliation <https://www.asu.edu/aad/manuals/acd/acd401.html>. OEI was asked by the Title IX Coordinator to undertake an investigation into allegations of misconduct against a male professor (Respondent) about whom a media outlet informed the University it intended to publish an upcoming story. The described allegations were from current and former employees of The Origins Project led by the Respondent.

In accordance with ACD 401 and its accompanying Complaint and Investigative Procedure, P20 <https://provost.asu.edu/policies/procedures/p20>, OEI opened an investigation to address these allegations. While the investigation was pending, interim measures were put into place for Respondent for the purpose of enabling the investigation to proceed without concern by either the Respondent or by participating witnesses of any allegation of retaliation. The Provost has reviewed the investigation conducted by OEI and concurs with some of its conclusions, using the preponderance of the evidence standard, that certain of Respondent's conduct violated ACD 401. Responsive action will be taken.

Allegations of Inappropriate Comments and/or Conduct

In December 2017, the University became aware that a media outlet was preparing an article claiming that the Respondent had engaged in sexual harassment, including towards staff members in The Origins Project. The University requested that the media outlet provide OEI with information from the individuals whom it would be quoting in the forthcoming article, but the media outlet declined to provide the University with any information. Following the publication of the media outlet story on February 22, 2018, OEI learned the names of former staff members who were expressing concerns. According to the article, the allegations of inappropriate comments and conduct occurred in the context of the Respondent's duties as director of The Origins Project. The witnesses identified in the article included current and prior employees of The Origins Project. None of these employees had previously made an internal complaint to the Office of Equity and Inclusion about the Respondent's conduct. Additionally following the appearance of the media outlet story, third parties outside of the University also contacted OEI to report experiences with Respondent that they felt were inappropriate or unprofessional.

The allegations covered a relatively broad span of time from 2009 through 2016 and thus were considered by OEI under the applicable terms of ACD 401 as were in place at the pertinent time. These included the 2015 version, the 2011 version and the 2007 version.

The comments and/or conduct fell into the following three categories: (1) complained of comments about which OEI determined that there was insufficient evidence to show that such comments had been made; (2) complained of conduct by Respondent that OEI determined had occurred but even so, such conduct did not constitute a violation of ACD 401; and (3) complained of comments or conduct of a sexual nature by the Respondent in the workplace, and at events attended by Respondent when his

attendance was funded by the University that OEI determined had been made or had occurred and that constituted a violation of ACD 401.

I accept the findings of OEI with respect to the first two categories noted above.

The focus of this Determination will be on the third category - complained of comments or conduct of a sexual nature by the Respondent in the workplace and at events attended by Respondent when his attendance was funded by the University. The most significant of these allegations, which I find to be substantiated by a preponderance of the evidence, are:

- Sometime in June 2009, while discussing a female's potential involvement/employment with The Origins Project, Respondent propositioned her for a threesome. Respondent acknowledged that this conversation occurred but characterized it as a joke. He was uncertain whether it occurred in relation to their discussing her prospective involvement at the University. The female did join ASU in 2010 for a one year appointment. While the female was employed at ASU, she disclosed that this conversation had occurred to the university staff member who was her supervisor. The supervisor stated that the female described her reaction to the comment as being "aghast, that it was weird, said no, and that was that."
- Respondent intentionally touched the thigh of a female attendee at an academic conference in 2011 (Denkfest). The University paid for a portion of Respondent's expenditures on this trip where he was an invited speaker. The female attendee did not participate in OEI's investigation other than to forward a link to a video she had posted on YouTube describing the incident. This video was posted by the female attendee on March 16, 2018. In the video, she states that she and Respondent were waiting in line to get a drink from the bar when he "then reaches down and grabs the bottom of my mini dress, which, by the way, was short." The black mini dress worn by the woman displayed galaxies as part of its pattern. The female described Respondent's conduct as placing the back of his hand against her upper thigh, he then flipped his hand around so that his palm was resting on her thigh. After seeing the posted video on YouTube, the Respondent sent the woman a written response stating "if in the process of touching – pointing at the galaxy [which was depicted on the dress], if I touched you at all, I apologize."
- In October 2015, at the set-up for an event on campus sponsored by The Origins Project, Respondent looked a female student worker "up and down" and told her that he liked her attire. The Respondent denied having ever engaged in looking a student worker "up and down." He thought it possible that he might have complimented a student worker on his or her attire if he thought the attire was not particularly appropriate as an effort to put the student at ease. Yet, the student worker felt very uncomfortable by the Respondent's action and comment. Two staff members witnessed the exchange and observed the student worker's change in demeanor. They immediately approached the student worker to ask if she was okay. The student worker stated that she was not and left the site.

I find the foregoing instances of conduct to be grossly unprofessional for a faculty member of this institution. It is inconceivable how a faculty member in the course of carrying out his work responsibilities could believe that the conduct would ever be appropriate.

During the course of the investigation, OEI reviewed a variety of statements by Respondent as well as other staff members that occurred within the workplace and that were reported by former staff members.

- On one occasion during 2012-2013, Respondent discussed strip clubs with his staff.
- During the fall of 2012, Respondent admitted saying to one of his employees that she should “take one for the team” and date a donor who had an interest in her. While the staff member to whom the comment was directed did not recall the remark having been made, another staff member was offended by the comment.
- Respondent created and allowed an environment where staff were encouraged to view fan mail (letters, emails, social media messages) he received, even if the mail contained sexually explicit content, including nude photos and fans propositioning him.
- In 2013, Respondent discussed his and his employees’ sexual desire for a Hollywood actor/actress. Respondent noted that although he does not specifically remember the conversations, it is “the type of fun conversation that may have happened”.
- Sometime in 2015-2016, after seeing a picture of a transgender female, Respondent stated, “Oh, wow. She’s hot.”
- On February 16, 2016, Respondent told a female attendee at an Origins Event, whom he described as a good friend, “get your hot ass over here” and told her “your ass looks great”. Respondent made this comment in the presence of several staff members, thus it was not a private comment. Respondent also discussed with staff how “hot” this female in question was.
- In April of 2016, Respondent suggested that an employee dress like a hula girl and stand on one of the university’s malls to advertise an event.
- Sometime in 2016, Respondent drew and showed staff a hand-drawn cartoon of a person bent over with their pants pulled down revealing their bare buttocks.
- Respondent and the Executive Director engaged in conduct towards one another – hugging, touching, kissing - in the presence of staff, giving the perception to current and former staff members that they were involved in an intimate relationship. The Respondent and Executive Director both strongly denied that there was an intimate relationship; rather, they stated that hugs and kiss on the cheek or blowing a kiss via Skype was a form of greeting.¹

¹ OEI referred the concerns over unprofessional conduct under ACD 515/SPP 205 to the College for further review.

Respondent frequently responded to the investigator that "if [a statement] happened, it was a joke" or where he acknowledged having made a particular comment that "it was a joke." It is clear from the investigation that Respondent fostered a work environment where sexual banter was not uncommon. OEI determined that there was sufficient evidence to conclude that these comments created an offensive environment for employment for some staff members in Origins. I accept that finding. Moreover, I find that Respondent was unprofessional and failed as a leader by contributing to and permitting his employees to engage in this behavior and create this type of environment.

Discrimination Allegations

As to the several allegations of gender discrimination against Respondent, OEI found certain allegations were not substantiated while other allegations were substantiated.

I accept OEI's determination that there is no evidence to support the allegation that that Respondent invited and then disinvited a female scholar to speak at an Origins Project event.

I accept OEI's determination that there is no evidence to show that Respondent opposed topics on feminism for panel discussions at Origin Project events.

I accept OEI's determination that there is insufficient evidence to show that Respondent intentionally misused gender pronouns.

One witness complained that Respondent walked out of a public lecture by a female postdoctoral scholar before its conclusion. While the Respondent had to leave the lecture before its conclusion, his departure was due solely to a conflicting schedule commitment. OEI found and I concur that Respondent's departure did not constitute a violation of ACD 401.

Several witnesses raised a few comments by Respondent concerning gender and gay rights. However, those comments were part of discussions about complex issues surrounding gender and the transgender and the gay rights movements in the context of planning a gender event. The discussions clearly fall within the Respondent's right to academic freedom (ACD 202) and do not violate the institution's nondiscrimination policy.

OEI concluded that there was sufficient evidence to show that Respondent treated individuals differently based on sex/gender as evidenced by comments he made in the workplace. Specifically:

- In September 2016, Respondent commented to staff "she's really got balls" in reference to a transgender female guest who was negotiating the terms for her appearance at one of The Origins Project's upcoming events. Respondent acknowledged making this statement.
- Over the time frame of 2012-2016, OEI found that Respondent made a number of negative comments about pregnancy in the workplace:
 - Respondent, prior to a big event, told two staff members that he hoped that they did not get pregnant.
 - Respondent made negative statements to his employees about maternity leave and the impact such leave has on the employer.
 - Respondent offered to buy birth control pills for an employee who he had known for years and who had shared personal information with him.

- Respondent expressed his employee frustration (stated that it was "a pain in the ass") over an employee expressing milk in the workplace because he could not get into an office.

The evidence established that no negative action was ever taken towards staff in The Origins Project who actually became pregnant. Respondent stated that any negative comments that he may have made about maternity leave were directed towards being critical of the sufficiency of the university's policy which did not provide a pool of funds from which temporary employees could be hired. However, Respondent's comments left some employees with the impression that taking parental leave would negatively impact the workplace. This conduct was contrary to the provisions of ACD 401 (2011 and 2015 iterations).

Alleged Failure to Report

A stand-alone allegation of failure to report by Respondent was raised by a former employee. She stated that a donor to The Origins Project had taken a romantic interest in her and despite her direction to him to cease communication with her, she continued to be harassed by him (receiving more than 50 messages). The employee verbally raised her concern about the donor to both the Respondent and the Executive Director of The Origins Project, but noted that it was on a day when Respondent was very rushed and only in the office for about 10 minutes. She described Respondent as not really reacting. She described the Executive Director as saying "Oh, it's so cute. He has a crush on you." Respondent acknowledged that he was aware of the duty to report provision of ACD 401 (2015 iteration). He also stated that the staff member had informed him that the donor had asked her out socially but that she had told the donor that she was not interested. Respondent denied knowledge of the extensive communication by the donor to the staff member and was of the impression that the staff member had handled the matter. Neither the Respondent nor the Executive Director referred the concern to OEI. I find that the preponderance of the evidence supports OEI's conclusion that the unwanted advances were taking place in conjunction with the staff member's work and that the Respondent failed to recognize the need to control the environment in which his employees were working and report the unwanted contact.

Conclusion

It is the policy of ASU to provide an environment free of discrimination, harassment or retaliation for the entire university community and the University expressly prohibits discrimination, harassment or retaliation by its employees. ACD 401 provides that "inappropriate conduct need not raise to the level of a violation of federal or state law to constitute a violation of this policy and to warrant disciplinary action." ACD 401 defines sexual harassment as "unwelcome behavior or conduct of a sexual nature (including unwelcome sexual advances or activity), which is sufficiently severe or pervasive as to create an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in university-sponsored programs or activities." The substantiated instances of Respondent's conduct described above are contrary to the provisions of our institutional policy and also demonstrate a pattern of poor judgment. Of particular concern is that the Respondent's poor judgment was continuously displayed over time despite negative reactions from female employees and attendees at academic conferences and despite the Respondent having completed the University's workplace training module. That conduct also constitutes a violation of the Code of Ethics (ACD 204-01) with respect to Responsibilities to the University, Responsibilities to Colleagues and Responsibilities to Research,

Scholarship, and/or Creative Activities. Employees and conference attendees were denied a respectful working or learning environment.

Responsive action will be taken to prevent a recurrence of this conduct.

This Determination concludes the complaint review process.

Academic Affairs Manual (ACD)

Effective: 7/1/1978

Revised: 5/23/2016



ACD 401: Prohibition Against Discrimination, Harassment, and Retaliation

Purpose

To express the university's policy on discrimination, harassment, and retaliation

Sources

Arizona Board of Regents Policy Manual - 1-119

Title VII of the Civil Rights Act of 1964 (Pub.L. 88-352) as amended, 42 U.S.C. §2000e

Title IX, U.S. Education Amendments Act of 1972 (Pub.L. 92-318), 20 U.S.C. §§1681-1688

Department of Education Dear Colleague Letter dated April 4, 2011; Department of Education Questions and Answers on Title IX and Sexual Violence

The Clery Act, 20 U.S.C. §1092(f) as amended

Arizona Revised Statutes

Applicability

All ASU employees, students, volunteers, contractors and agents; all ASU educational programs, activities, opportunities and benefits; all persons participating in or accessing ASU-sponsored programs and activities.

Policy

Arizona State University is committed to providing an environment free of discrimination, harassment, or retaliation for the entire university community, including all students, faculty members, staff employees, and guests. ASU expressly prohibits discrimination, harassment, and retaliation by employees, students, contractors, or agents of the university based on any protected status: race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, and genetic information.

Inappropriate conduct need not rise to the level of a violation of federal or state law to constitute a violation of this policy and to warrant disciplinary action/sanctions.

All individuals identified in the Applicability section of this policy are responsible for participating in and assisting with creating and maintaining an environment at ASU free from all forms of prohibited discrimination, including harassment and retaliation. All individuals identified in the Applicability section of this policy are required to cooperate with any investigation of allegations of violations of this policy.

Providing false or misleading information or failure to cooperate may result in disciplinary action.

Required Reporting

Unless a person is restricted by law from doing so, any employee who is informed of or has a reasonable basis to believe that sexual harassment has occurred, shall immediately report all information regarding the occurrence(s) to the Office of Equity and Inclusion/Title IX Coordinator.

Failure to report and/or inaction may be cause for disciplinary action.

If an individual wishes to have a confidential conversation about an allegation of sexual harassment, that individual can do so by seeking an appointment with a licensed counselor or health care professional. The university provides such services at the Health Services, Employee Assistance Office, or ASU Counseling Services located on each campus. Also, consistent with state law, the ASU Police Department Victim's Advocate is a person with whom an individual can hold a confidential conversation about an allegation of sexual violence, including sexual assault.

Additionally, any individual has the right to contact local law enforcement to file a criminal report.

A supervisor, manager, or administrator who is informed of or has a reasonable basis to believe that violations of this policy, other than sexual harassment, have occurred shall promptly report it to the Office of Equity and Inclusion. Failure to report or supervisory inaction may be cause for disciplinary action.

Anyone who believes that he or she has been subjected to discrimination, harassment, or retaliation in violation of this policy, or who believes that this policy has been violated, should report the matter immediately to the Office of Equity and Inclusion.

Anonymity

If an individual wishes to remain anonymous, that individual can make a report to the ASU Hotline at 877/786-3385.

If an individual requests anonymity after a report is filed, the Office of Equity and Inclusion/Title IX Coordinator will take into account the request, the due process rights of all parties involved, the severity of the alleged harassment, and the potential risk of a hostile environment for others in the community in order to determine whether the request can be honored. The requesting party will be advised of the determination.

Other Policy Violations

Because the university has a paramount interest in protecting the well being of its community and remedying discrimination, harassment, and retaliation, any other policy violation (e.g. alcohol or drug use on campus, or underage

use) will be considered, if necessary, separately from the allegations of misconduct under this policy.

Procedures

The exclusive procedure and protocols for the investigation of any claims of violations of ACD 401 by students are handled, consistent with this policy, in accordance with the Arizona Board of Regents (ABOR) *Student Code of Conduct* (SSM 104-01) and related procedures, located on the [Sexual Violence Awareness and Response, Policies and Procedures Web page](#). These procedures provide for prompt and equitable methods of investigation and resolution to stop discrimination, remedy any harm, and prevent its recurrence.

The exclusive procedures and protocols for the investigation of all claims of violations of ACD 401 by employees are set forth in P20. These procedures provide for prompt and equitable methods of investigation and resolution to stop discrimination, remedy any harm, and prevent its recurrence. Unless specifically and explicitly excepted by ABOR policy, these procedures and protocols shall be the exclusive process for reviewing claims of violations of ACD 401. If a deviation from these procedures is determined to be necessary for a particular case, that deviation shall not invalidate the findings of any investigation.

Sanctions

The university will take interim measures, designed to support and protect individuals and the university community, at any time. Such interim measures might include: restrictions on contact, class or work schedule alterations, leaves of absence, increased safety measures, student housing changes, or course/class academic adjustments. If it is ultimately determined that this policy has been violated, then these measures may also become part of any permanent sanction/discipline against the violator.

If, by the preponderance of the evidence, a violation of this policy is found to have occurred by an employee or student, then disciplinary action(s) can be taken; such disciplinary action(s) may include termination for employees or suspension or expulsion for students. Violations of this policy by persons who are not employees or students of the university may be subject to appropriate sanctions as provided for under law or policy.

The filing of a complaint or charge by an individual with any outside agency, such as the Equal Employment Opportunity Commission or the Office of Civil Rights, will not affect any ASU investigation concerning the same or similar events.

Definitions

Discrimination

Discrimination is defined under applicable federal and state law. In general, unlawful discrimination means failing to treat people equally based, at least in part, on status that is protected under applicable law or policy. Protected status includes race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, and genetic information.

Harassment

Harassment is a specific form of discrimination. It is unwelcome behavior, based on a protected status, which is sufficiently severe or pervasive as to create an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in university-sponsored programs or activities.

Sexual Harassment

Sexual harassment is harassment, whether between individuals of the same or different sex, which includes unwelcome behavior or conduct of a sexual nature (including unwelcome sexual activity) that is made, either explicitly or implicitly, a condition of an individual's education, employment, or participation in university-sponsored programs or activities or the submission to or rejection of such behavior or conduct is a factor in decisions affecting that individual's education, employment, or participation in university-sponsored programs or activities. Sexual harassment is also unwelcome behavior or conduct of a sexual nature (including unwelcome sexual advances or activity), which is sufficiently severe or pervasive as to create an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in university-sponsored programs or activities.

Sexual Violence

Sexual violence includes attempted or actual physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the use of drugs or alcohol, due to an intellectual or other disability, or due to age is also a form of sexual harassment. This can include rape, sexual assault, sexual battery, sexual coercion, domestic and dating violence, and stalking.

Retaliation

Retaliation occurs when an adverse action (e.g., termination, denial of promotion, refusal to hire, unjustified discipline or evaluation, etc.) is taken against an individual for complying with this policy, opposing conduct reasonably believed to constitute a violation of this policy, filing a report under this policy, seeking an accommodation under this policy, or participating in any manner in an investigation or proceedings related to this policy.

Adverse actions that are reasonably likely to deter a complaining individual or others from engaging in protected activity are prohibited.

Report

Allegation(s) of a violation of this policy that is/are made to any manager, supervisor, administrator, or the Office of Equity and Inclusion or the Dean of Students, Office of Student Rights and Responsibilities.

Unwelcome Sexual Activity

Engaging in sexual activity with a person, whom you reasonably should know or do know, has not consented or is incapable of giving consent.

- consent in the context of sexual activity means informed and freely given words or actions that indicate a willingness to participate in mutually agreed upon sexual activity
- consent may not be inferred from:
 1. silence, passivity or lack of resistance
 2. a current or previous dating or sexual relationship,
 3. acceptance or provision of gifts, meals, drinks, or other items

or

4. previous consent to sexual activity
- consent may be withdrawn during sexual activity, consent to one form of consensual sexual activity does not imply consent to any other form of sexual activity
 - consent must not be obtained through physical force, violence, duress, intimidation, coercion, or an express or implied threat of injury
 - consent may never be given by a person who is: incapacitated (by drugs, alcohol or otherwise), unconscious, asleep, or otherwise physically or mentally unable to make informed, rational judgments. The

use of alcohol or drugs does not diminish one's responsibility to obtain consent and does not excuse conduct that violates this policy

and

- consent cannot be given by someone who, by virtue of age, circumstances or other factors, is deemed by law to be incapable of giving consent.

Additional Information

For information on how to file a complaint with the office of Civil Rights, go to:
<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

Cross-References

For additional information, see:

1. [ACD 402](#), "Romantic or Sexual Relationships Between Faculty Members and Students"
 2. [ACD 405](#), "Individuals with Disabilities"
- and
3. [SPP 815](#), "Romantic or Sexual Relationships Between Staff/Volunteers and Students"

For appropriate grievance procedures for students, see:

Student Services Manual—SSM 104-01, "*Student Code of Conduct and Student Disciplinary Procedures*"

[ACD manual](#) | [ASU policies and procedures manuals](#) | [Index of Policies by Title](#) | [ACD manual contact](#) | [Provost's Office Web site](#)

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Academic Affairs Manual (ACD)

Effective: 7/1/1978

Revised: 3/1/2015

ASU ACD 401: Prohibition Against Discrimination, Harassment, and Retaliation

Purpose

To express the university's policy on discrimination, harassment, and retaliation

Sources

Arizona Board of Regents Policy Manual - 1 -119

Title VII of the Civil Right Act of 1964 (Pub.L. 88-352) as amended, 42 U.S.C. Â§2000e.

Title IX, U.S. Education Amendments Act of 1972 (Pub.L. 92-318), 20 U.S.C. Â§Â§ 1681-1688.

Department of Education Dear Colleague Letter dated April 4, 2011; Department of Education Questions and Answers on Title IX and Sexual Violence.

The Clery Act, 20 U.S.C. Â§ 1092(f) as amended.

Arizona Revised Statutes

Applicability

All ASU employees, students, volunteers, contractors and agents; all ASU educational programs, activities, opportunities and benefits; all persons participating in or accessing ASU-sponsored programs and activities.

Policy

Arizona State University is committed to providing an environment free of discrimination, harassment, or retaliation for the entire university community, including all students, faculty members, staff employees, and guests. ASU expressly prohibits discrimination, harassment, and retaliation by employees, students, contractors, or agents of the university based on any protected status: race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, and genetic information.

Inappropriate conduct need not rise to the level of a violation of federal or state law to constitute a violation of this policy and to warrant disciplinary action/sanctions.

All individuals identified in the Applicability section of this policy are responsible for participating in and assisting with creating and maintaining an environment at ASU free from all forms of prohibited discrimination, including harassment and retaliation. All individuals identified in the Applicability section of this policy are required to cooperate with any investigation of allegations of violations of this policy.

Providing false or misleading information or failure to cooperate may result in disciplinary action.

Required Reporting

Sexual Harassment

Unless a person is restricted by law from doing so, any employee who is informed of or has a reasonable basis to believe that sexual harassment has occurred, shall immediately report all information regarding the occurrence(s) to the appropriate university official as noted below:

- Office of Equity and Inclusion when there is a complaint or information involving an allegation against an employee
 - Dean of Students Office when there is a complaint or information involving an allegation against a student
- or
- Title IX Coordinator when one is unsure of where to report.

Failure to report and/or inaction may be cause for disciplinary action.

If an individual wishes to have a confidential conversation about an allegation of sexual harassment, that person can do so by seeking an appointment with a licensed counselor or health care professional. The university provides such services at the Health Services, Employee Assistance Office, or ASU Counseling Services located on each campus.

Additionally, any individual has the right to contact local law enforcement to file a criminal report.

Other Discrimination or Harassment

A supervisor, manager, or administrator who is informed of or has a reasonable basis to believe that violations of this policy, other than sexual harassment, have occurred shall promptly report it to the Office of Equity and Inclusion. Failure to report or supervisory inaction may be cause for disciplinary action.

Anonymity

If a person wishes to remain anonymous, that person can make a report to the ASU Hotline at 877/786-3385.

If a person requests anonymity after a report is filed, the Office of Equity and Inclusion/Title IX Coordinator will take into account the request, the due process rights of all parties involved, the severity of the alleged harassment, and the potential risk of a hostile environment for others in the community in order to determine whether the request can be honored. The requesting party will be advised of the determination.

Other Policy Violations

Because the university has a paramount interest in protecting the well being of its community and remedying discrimination, harassment, and retaliation, any other policy violation (e.g. alcohol or drug use on campus, or underage use) will be considered, if necessary, separately from the allegations of misconduct under this policy.

Procedures

The exclusive procedure and protocols for the investigation of any claims of violations of this policy by students are handled, consistent with this policy, in accordance with the Arizona Board of Regents (ABOR) *Student Code of Conduct* (SSM 104-01) and related procedures, which can be found on the [Sexual Violence Awareness and Response, Policies and Procedures Web page](#). These procedures provide for prompt and equitable methods of investigation and resolution to stop discrimination, remedy any harm, and prevent its recurrence.

The exclusive procedures and protocols for the investigation of all claims of violations of this policy by employees are set forth in P20. These procedures provide for prompt and equitable methods of investigation and resolution to stop discrimination, remedy any harm, and prevent its recurrence. Unless specifically and explicitly excepted by ABOR policy, these procedures and protocols shall be the exclusive process for reviewing claims of violations of this policy. If a deviation from these procedures is determined to be necessary for a particular case, that deviation shall not invalidate the findings of any investigation.

Sanctions

The university will take interim measures, designed to support and protect individuals and the university community, at any time. Such interim measures might include: restrictions on contact, class or work schedule alterations, leaves of absence, increased safety measures, student housing changes, or course/class academic adjustments. If it is ultimately determined that this policy has been violated, then these measures may also become part of any permanent sanction/discipline against the violator.

If, by the preponderance of the evidence, a violation of this policy is found to have occurred by an employee or student, then disciplinary action(s) can be taken; such disciplinary action(s) may include termination for employees or suspension or expulsion for students. Violations of this policy by persons who are not employees or students of the university may be subject to appropriate sanctions as provided for under law or policy.

The filing of a complaint or charge by an individual with any outside agency, such as the Equal Employment Opportunity Commission or the Office of Civil Rights, will not affect any ASU investigation concerning the same or similar events.

Definitions

Discrimination

Discrimination is defined under applicable federal and state law. In general, unlawful discrimination means failing to treat people equally based, at least in part, on status that is protected under applicable law or policy. Protected status includes race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, and genetic information.

Harassment

Harassment is a specific form of discrimination. It is unwelcome behavior, based on a protected status, which creates an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in university-sponsored programs or activities.

Sexual Harassment

Sexual harassment is harassment, whether between individuals of the same or different sex, which includes unwelcome behavior or conduct of a sexual nature (including unwelcome sexual activity) that is made, either explicitly or implicitly, a condition of an individual's education, employment, or participation in university-sponsored programs or activities or the submission to or rejection of such behavior or conduct is a factor in decisions affecting that individual's education, employment, or participation in university-sponsored programs or activities. Sexual harassment is also unwelcome behavior or conduct of a sexual nature (including unwelcome sexual advances or activity), which creates an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in university-sponsored programs or activities.

Sexual Violence, which includes attempted or actual physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the use of drugs or alcohol, due to an intellectual or other disability, or due to age is also a form of sexual harassment. This can include rape, sexual assault, sexual battery, sexual coercion, domestic and dating violence, and stalking.

Retaliation

Retaliation occurs when an adverse action (e.g., termination, denial of promotion, refusal to hire, unjustified discipline or evaluation, etc.) is taken against an individual for complying with this policy, opposing conduct reasonably believed to constitute a violation of this policy, filing a report under this policy, seeking an accommodation under this policy, or participating in any manner in an investigation or proceedings related to this policy.

Adverse actions that are reasonably likely to deter a complaining individual or others from engaging in protected activity are prohibited.

Report

Allegation(s) of a violation of this policy that is/are made to any manager, supervisor, administrator, or the Office of Equity and Inclusion or the Dean of Students, Office of Student Rights and Responsibilities.

Unwelcome Sexual Activity

Engaging in sexual activity with a person, whom you reasonably should know or do know, has not consented or is incapable of giving "consent."

- consent in the context of sexual activity means informed and freely given words or actions that indicate a willingness to participate in mutually agreed upon sexual activity
- consent may not be inferred from:
 1. silence, passivity or lack of resistance
 2. a current or previous dating or sexual relationship,
 3. acceptance or provision of gifts, meals, drinks, or other items

or

4. previous consent to sexual activity
- consent may be withdrawn during sexual activity, consent to one form of consensual sexual activity does not imply consent to any other form of sexual activity

- consent must not be obtained through physical force, violence, duress, intimidation, coercion, or an express or implied threat of injury
- consent can never be given by a person who is incapacitated (by alcohol or other drugs), or who is unconscious, asleep, or otherwise physically or mentally unable to make informed, rational judgments. The use of alcohol or drugs does not diminish one's responsibility to obtain consent and does not excuse conduct that violates this policy

and

- consent cannot be given by someone who, by virtue of age, circumstances or other factors, is deemed by law to be incapable of giving consent.

Additional Information

For information on how to file a complaint with the office of Civil Rights, go to:
<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

Cross-References

For additional information, see:

1. [ACD 402](#), "Romantic or Sexual Relationships Between Faculty Members and Students"

and

2. [ACD 405](#), "Individuals with Disabilities."

For appropriate grievance procedures for students, see the *Student Services Manual*—[SSM 104-01](#), "*Student Code of Conduct* and Student Disciplinary Procedures."

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Academic Affairs Manual (ACD)

Effective: 7/1/1978

Revised: 7/1/2011

ASU ACD 401: Nondiscrimination, Anti-Harassment and Nonretaliation

Purpose

To express the university's policy on nondiscrimination, anti-harassment, and nonretaliation

Sources

Arizona Board of Regents Policy Manual - 1-119

Applicability

All ASU employees, students, contractors and agents; all ASU educational programs, activities, opportunities and benefits; all persons participating in or accessing ASU-sponsored programs and activities

Definitions

Discrimination

Discrimination is defined under applicable federal and state law. In general, unlawful discrimination means failing to treat people equally based, at least in part, on status that is protected under applicable law or policy.

Harassment

Harassment is a specific form of discrimination. It is unwelcome behavior, based on a protected status, which is sufficiently severe or pervasive to create an intimidating, hostile, or offensive environment for academic pursuits, employment, or participation in university-sponsored programs or activities.

Sexual Harassment

Sexual harassment is harassment, whether between individuals of the same or different sex, which includes unwelcome behavior or conduct of a sexual nature that is made, either explicitly or implicitly, a condition of an individual's education, employment, or participation in university-sponsored programs or activities or the

submission to or rejection of such behavior or conduct is a factor in decisions affecting that individual's education, employment, or participation in university-sponsored programs or activities.

Retaliation

Retaliation occurs when an adverse action is taken against an individual for engaging in protected activity. Protected activity consists of:

1. opposing conduct reasonably believed to constitute discrimination, including harassment, that violates an employment discrimination statute or that university or ABOR policy prohibits; or
2. filing a complaint about such practice; or
3. seeking an accommodation under this policy; or
4. testifying, assisting, or participating in any manner in an investigation or other proceeding related to a discrimination complaint.

Adverse actions that are reasonably likely to deter a complaining individual or others from engaging in protected activity are prohibited.

Report

Allegation(s) of a violation of this policy that is/are made to any manager, supervisor, administrator, or the Office of Equity and Inclusion or the Office of Student Rights and Responsibilities.

Policy

Arizona State University is committed to providing the university community, including students, faculty, staff, and guests, with an environment that is free of harassment, discrimination, or retaliation. ASU expressly prohibits harassment, discrimination, and retaliation by employees, students, contractors, or agents of the university based on protected status, including race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, and gender identity. ASU also complies with the *Genetic Information Nondiscrimination Act of 2008* (42 U.S.C. 2000ff *et seq.*).

All individuals identified in the Applicability section of this policy are responsible for participating in and assist with creating and maintaining an environment at ASU that is free from all forms of prohibited discrimination, including harassment and retaliation.

All individuals identified in the Applicability section of this policy shall cooperate with any investigation of allegations of violations of this policy. Providing false or misleading information or failure to cooperate may result in disciplinary action.

All supervisors, managers, or administrators who are informed of or have a reasonable basis to believe that a violation of this policy has occurred shall promptly report it to the Office of Equity and Inclusion. Failure to report or supervisory inaction may be cause for disciplinary action.

Anyone who believes that he or she has been subjected to discrimination, harassment, or retaliation in violation of this policy, or who believes that this policy has been violated, should report the matter immediately to the Office of Equity and Inclusion.

All ASU employees who receive reports of discrimination, harassment or retaliation shall maintain the confidentiality of the information that they receive except where disclosure is required by law or is necessary to facilitate legitimate university or ABOR processes, including reporting, investigation, and resolution of allegations.

The exclusive procedures and protocols for the investigation of all claims of violations of ACD 401 are set forth in P20.

Unless specifically and explicitly excepted by Board policy, these procedures and protocols shall be the exclusive process for reviewing claims of violations of ACD 401.

Violations of this policy may result in disciplinary action, up to and including termination for employees and in sanctions, including suspension or expulsion, for students. Violations of this policy by persons who are not employees or students of the university may be subject to appropriate sanctions as provided for under law or policy.

An individual's filing of a complaint or charge with any outside agency or entity will not affect any ASU investigation concerning the same or similar events.

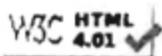
Cross-References

For additional information, see:

1. [ACD 402](#), "Amorous Relationships,"
and
2. [ACD 405](#), "Individuals with Disabilities."

For appropriate grievance procedures for students, see the *Student Services Manual*—[SSM 104-01](#), "Student Code of Conduct and Student Disciplinary Procedures."

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Academic Affairs Manual (ACD)

Effective: 7/1/1978

Revised: 6/8/2007

ASU ACD 401: Equal Opportunity/Affirmative Action

Purpose

To specify the university's policy on equal opportunity and affirmative action

Sources

20 *United States Code* §§ 1681–83 (1980)

29 *United States Code* § 206d (1980 & Supp. II, 1982); § 623 (1980 & Supp. II, 1982); § 793 (1980); § 794 (1980)

38 *United States Code* § 2012 (1980)

42 *United States Code* § 2000d (1980); § 2000e (1980); § 6101 (1980)

Americans with Disabilities Act of 1990 (ADA), 42 *United States Code* § 12101 *et seq.*

Executive Order 11246, as amended by 11375, 11478, and 12086

Arizona Revised Statutes § 41–1461

Arizona Board of Regents Policy Manual - 6–808

Applicability

All ASU employees and students

Policy

It is the policy of ASU to provide equal opportunity through affirmative action in employment and educational programs and activities. Discrimination is prohibited on the basis of race, color, religion, national origin, citizenship, sex, gender identity, sexual orientation, age, disability, Vietnam-era veteran status, other protected veteran status, newly separated veteran status, or special disabled veteran status. Equal employment opportunity includes but is not limited to: recruitment, hiring, promotion, termination, compensation, benefits, transfers, university-sponsored training, education, tuition assistance, and social and recreational programs.

ASU is committed to taking affirmative action in increasing opportunities at all levels of employment and to increasing participation in programs and activities by all faculty, staff, and students. Affirmative action is directed toward minority persons, women, Vietnam-era veterans, other protected veterans, newly separated veterans, special disabled veterans, and persons with disabilities.

Any employee or student may visit with the director of the Office of Diversity, Human Resources to confidentially discuss any concern and to explore available options without fear of jeopardizing either employment or academic status within the university.

University Policy Prohibiting Harassment

Harassment Prohibited

Subject to the limiting provisions of the Freedom of Speech and Academic Freedom section below, it is a violation of university policy for any university employee or student to subject any person to harassment on university property or at a university-sponsored activity.

Harassment Defined

Actions constitute harassment if:

1. they substantially interfere with another's educational or employment opportunities, peaceful enjoyment of residence, physical security
and
2. they are taken with a general intent to engage in the actions and with the knowledge that the actions are likely to substantially interfere with a protected interest identified in subsection 1 above. Such intent and knowledge may be inferred from all the circumstances.

Freedom of Speech and Academic Freedom

Neither this nor any other university policy is violated by actions that amount to expression protected by the state or federal constitutions or by related principles of academic freedom.

Relationship to the Work of the Campus Environment Team (CET)

If harassment is discriminatory, it falls within the education, information gathering, and referral functions of the CET. Harassment is discriminatory if taken with the purpose or effect of differentiating on the basis of another person's race, sex, gender identity, color, national origin, religion, age, sexual orientation, disability, other protected veteran status, special disabled veterans status, or Vietnam-era veteran status.

General Guidelines

In making personnel and other decisions, the responsible university hiring officials, committees, groups, and individuals

are guided by the following:

1. Qualifications

The university establishes and maintains standards necessary for the successful performance of the institution's teaching, research, and service functions. Only individuals meeting the established qualifications will be employed and/or promoted. Any department or division using a test to ascertain qualifications of employees or applicants for employment in positions is responsible for establishing its validity in accordance with federal regulations and for maintaining a current copy of the test on file in the Office of Diversity, Human Resources.

2. Hiring

Only individuals meeting the established qualifications will be employed and/or promoted. University employee selection decisions are made on the basis of job-related qualifications and not on the basis of race, color, religion, national origin, citizenship, sex, gender identity, sexual orientation, age, disability, Vietnam-era veteran status, other protected veteran status, newly separated veteran status, or special disabled veteran status, except where sex or age is a bona fide occupational qualification. Among finalists for a position, primary consideration will be given to meeting affirmative action objectives.

3. Training

To the extent resources permit, the university, as well as individual departments and divisions, provides on-the-job and other training programs designed to improve the skills required to perform assigned duties and to enhance opportunities for transfer and promotion. Available training programs are open to eligible employees without regard to race, color, religion, national origin, citizenship, sex, gender identity, sexual orientation, age, disability, Vietnam-era veteran status, other protected veteran status, newly separated veteran status, or special disabled veteran status.

4. Benefits

The university reviews any changes in benefit policies and practices to ensure compliance with the university's equal employment opportunity policy and reviews existing benefit policies and practices whenever required by changes in laws or regulations.

5. Pay

Faculty and staff job categories, pay rates, and duties are established in accordance with the concept of equal pay for equal work, and pay decisions are made without regard to race, color, religion, national origin, citizenship, sex, gender identity, sexual orientation, age, disability, Vietnam-era veteran status, other protected veteran status, newly separated veteran status, or special disabled veteran status. In addition, salary adjustments will be studied annually with regard to pay equity for all employees. However, proposed salary adjustments should be studied before implementation to minimize equity problems.

6. Promotion and Tenure

Faculty promotion and tenure decisions and staff promotions are made without regard to race, color, religion, national origin, citizenship, sex, gender identity, sexual orientation, age, disability, Vietnam-era veteran status, other protected veteran status, newly separated veteran status, or special disabled veteran status. Promotion policies and practices are communicated to employees and administered in accordance with the university's equal opportunity and affirmative action policies.

Race/Sex/Age Discrimination Guidelines

1. ASU does not discriminate on the basis of race, sex, gender identity, or age in employment, application for employment, benefit programs, training opportunities, or any other employment or educational program or activity.
2. University policies and procedures mandate the assessment of applicants and employees on job-related criteria without regard to race, sex, gender identity, or age. Each applicant is evaluated on his or her individual qualifications and ability to do the work required by the particular job.
3. All employment advertisements appearing in newspapers or other media are placed under nondiscriminatory headings.
4. ASU provides men and women the same employment opportunities, wages, hours, conditions of employment, and employer contributions to insurance, retirement, and other benefit programs. Sex-based criteria are not used in determining salaries.
5. All administrative, management, and supervisory level positions are open to qualified applicants regardless of race, sex, or age.
6. There is no distinction or discrimination between married and unmarried applicants or employees of either sex.
7. ASU does not deny employment because of pregnancy. Maternity leave is provided through sick leave policies that apply to women employees who take time off for pregnancy, childbearing, and/or related conditions (see [ACD 702-02](#), "Health-Related Leave," [SPP 701-01](#) "Sick Leave-General Policy," [ACD 702-03](#), "Family Leave," and [SPP 705-02](#) "Family Leave"). ASU does not penalize women in terms of conditions of employment because of pregnancy and childbearing. Furthermore, following childbirth, a woman employee who indicates her intent to return within a reasonable time shall be reinstated to a position of like status and pay without loss of pay or benefits.
8. The employee leave policies apply to men and women employees who take time off for child-care purposes.
9. ASU does not have an exclusionary policy regarding women with children.
10. ASU has sufficient facilities, such as washrooms, for women and men employees.
11. To provide equal access to all training programs, employees are advised of training opportunities through the university bulletin, *ASU Insight*, and the Employee Development Program Schedule.
12. ASU has the same mandatory and optional retirement policies for all eligible employees.
13. Sexual harassment, as defined in 29 *Code of Federal Regulations* § 1604 (1990), is prohibited by university policy (see [ACD 402](#), "Sexual Harassment," for the complete policy).

Affirmative Action Program for Individuals with Disabilities, Special Disabled Veterans, Other Protected Veterans, Newly Separated Veterans, and Vietnam-Era Veterans

1. The Affirmative Action Program for individuals with disabilities, special disabled veterans, other protected veterans, newly separated veterans, and Vietnam-era veterans, which applies to staff and job applicants, is periodically reviewed and updated. Significant changes in procedures, rights, or benefits that occur as a result of the annual updating are communicated to staff and job applicants.
2. Each job applicant is evaluated on individual qualifications and ability to perform the essential functions of a particular job. All levels of employment are open to disabled individuals, special disabled veterans, other protected veterans, newly separated veterans, and Vietnam-era veterans.

A component of affirmative action includes employing and advancing in employment qualified disabled individuals. Such actions apply, but are not limited, to all employment practices including: recruitment or advertising; hiring, promotion, or transfer; pay rate, salary adjustments, or other forms of compensation; selection for training; and termination.

3. Employment practices are monitored and reviewed to ensure that procedures result in careful, thorough, and systematic consideration of the job qualifications of known disabled, special disabled veteran, other protected veteran, newly separated veteran, or Vietnam-era veteran applicants and staff for both job vacancies, filled either by hiring or promotion, and training opportunities. Each applicant for employment may voluntarily self identify as

being an other protected veteran or being a Vietnam-era veteran.

4. Any physical or mental job qualification requirements that may tend to screen out qualified disabled individuals, special disabled veterans, other protected veterans, newly separated veterans, and Vietnam-era veterans and that are used by the university to select applicants for employment or to select staff for changes in employment status, e.g., promotion, are job related and required as a business necessity or for the safe performance of the job. The university has the right to conduct a comprehensive medical examination after an offer of employment is made, provided that the results of such an examination are used only in accordance with the requirements of 41 *Code of Federal Regulations* § 60-741.6 (1990).

Information about an applicant's or staff member's physical or mental condition and the results of required medical examinations are confidential, subject to these exceptions:

- a. required accommodation to and restrictions on the work or duties of disabled individuals may be communicated to supervisors and managers
 - b. appropriate emergency treatment information may be communicated to first aid and safety personnel
and
 - c. information requested by government officials investigating compliance with the *Rehabilitation Act of 1973*, the *Vietnam Era Veterans' Readjustment Act of 1974*, and/or the *Americans with Disabilities Act of 1990*, may be supplied to those officials.
5. The university attempts to make reasonable accommodation for the limitations of disabled individuals and special disabled veterans unless the accommodation creates undue hardship on the university.
 6. In offering employment or promotions to an individual with a disability, special disabled veteran, other protected veteran, newly separated veteran, and Vietnam-era veteran, the amount of compensation is not reduced because of any disability income, pension, or other benefit the applicants or staff members receive from another source.
 7. The director of Office of Diversity, Human Resources periodically reviews employment practices to determine whether personnel programs provide the required affirmative action for employment and promotion of disabled, special disabled veteran, other protected veteran, newly separated veteran, and Vietnam-era veteran individuals. Based on the findings of the review, the university may make changes in its community outreach and special recruitment activities.

Currently, the university:

- a. establishes the essential job functions for positions before they are advertised
 - b. institutes reasonable internal procedures to fulfill its obligation to employ and promote qualified disabled individuals, special disabled veterans, other protected veterans, newly separated veterans, and Vietnam-era veterans
 - c. enlists the assistance and support of recruiting sources and community groups (a current listing of the recruiting sources and community groups may be obtained from the Office of Diversity, Human Resources, Arizona State University, Tempe, Arizona 85287-5612).
 - d. attempts to include disabled, special disabled veteran, other protected veteran, newly separated veteran, and Vietnam-era veteran workers in university-sponsored pictures of staff that appear in consumer, promotion, or advertising materials
and
 - e. notifies subcontractors, vendors, and suppliers of its policy of nondiscrimination on the basis of disabled, special disabled veteran, other protected veteran, newly separated veteran, and Vietnam-era veteran status and requests they take appropriate action regarding that policy.
8. In order to ensure greater staff cooperation and participation in the university's efforts to carry out affirmative action for disabled workers, special disabled veteran workers, other protected veterans, newly separated veterans, and Vietnam-era veteran workers, the university implements and disseminates this policy internally through

various means.

9. Responsibility for the implementation of the policy is vested in the president, the executive vice president and provost of the university, the vice presidents, the director of the Office of Diversity, Human Resources, and the management staff.

Immigration Reform and Control Act of 1986 and Antidiscrimination Guidelines

1. ASU does not discriminate against any individual with respect to recruitment, selection, and termination because of an individual's national origin or citizenship status.
2. In compliance with the *Immigration Reform and Control Act of 1986*, all persons hired after November 6, 1986, are required to demonstrate their authorization for employment in the United States. This policy will be applicable to all persons.
3. ASU will continue to verify employment authorizations for all applicants in a nondiscriminatory manner in keeping with antidiscrimination laws.

Cross-References

For information about discrimination complaints, see:

1. [ACD 402](#), "Sexual Harassment,"
2. [ACD 403](#), "Procedures for Resolving Complaints of Unlawful Discrimination,"
3. [ACD 404](#), "Board on Equal Opportunity,"

and

4. [ACD 405](#), "Americans with Disabilities."

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[Dorothy DiRienzi](#), Editor/Publisher

Academic Affairs Manual (ACD)

Effective: 1/27/1986

Revised: 7/1/2011

ASU ACD 204-01: Code of Ethics

Purpose

To define the faculty and academic professional code of ethics

Source

University Senate

Applicability

Faculty
Academic professionals

Policy

These ethical principles and types of unacceptable behavior are organized around the individual faculty member's and academic professional's relation to teaching and students, scholarship, professional responsibilities, university, colleagues, and community. Since university discipline, as distinguished from other forms of reproof, should be reserved for misconduct that is either serious in itself, or is made serious through its repetition or its consequences, the following general principle is intended to govern all instances of its application: University discipline that may result from violation of this code may be imposed for conduct that is not justified by ethical principles and that impairs the university's central functions.

Responsibilities to Teaching and Students

Ethical Standards

1. To encourage the free pursuit of learning in students.
2. To hold before students the best scholarly standards of the disciplines.
3. To demonstrate respect for students as individuals, and to adhere to one's proper role as intellectual guide and counselor.
4. To make every reasonable effort to foster honest academic conduct and to assure that evaluation of students reflects their true merits.
5. To avoid any exploitation of students for private advantage and acknowledge significant assistance from them.
6. To protect student academic freedom.

Types of Unacceptable Conduct

Failure to meet the responsibilities of instruction, including:

1. arbitrary denial of access to instruction and/or instructional materials
2. significant intrusion of material unrelated to the course
3. significant evidence of a pattern of failing to adhere, without legitimate reason, to the rules of the faculty in the conduct of courses, to meet class, to keep office hours, or to hold examinations as scheduled
4. evaluation of student work by criteria not directly reflective of course performance
5. undue and unexcused delay in evaluating student work
6. discrimination against a student on political grounds, or for reasons of race, religion, sex, gender identity, sexual orientation, national origin, disability, Vietnam era veteran status, recently separated veteran status, other protected veteran status, or for other arbitrary or personal reasons

7. use of the position of power to coerce the judgment or conscience of a student or to cause harm to a student for arbitrary or personal reasons
8. participating in or deliberately abetting disruption, interference, or intimidation in the classroom
9. harassment as explained in [ACD 402](#), "Romantic or Sexual Relationships Between Faculty Members and Students" and [ACD 401](#), "Nondiscrimination, Anti-Harassment, and Nonretaliation"
10. breach of the privacy rights of students per [SSM 107-01](#), "Release of Student Information" and
11. unauthorized or inappropriate use of self-authored instructional materials per [ACD 204-04](#), "Royalties from Instructional Materials."

Responsibilities to Research, Scholarship, and/or Creative Activities

Ethical Standards

1. To recognize the special responsibility for the advancement of knowledge.
2. To seek the truth and to state the truth as one sees it.
3. To improve scholarly competence.
4. To exercise critical self-discipline and judgment in using, extending, and transmitting knowledge.
5. To practice intellectual honesty.
6. To prevent intrusion of subsidiary interests in the freedom of inquiry.

Types of Unacceptable Conduct

1. Violation of canons of intellectual honesty, such as misappropriation of the writings, research, and findings of others.
2. Engaging in activities where "conflict of interest" may influence the evaluation of, funding for, or general promotion of research proposals or research results.
3. Harassment as explained in [ACD 402](#), "Amorous Relationships" and [ACD 401](#), "Nondiscrimination, Anti-Harassment, and Nonretaliation."

Responsibilities to the University

Ethical Standards

1. To be effective in teaching, research, scholarship and/or creative activities, and service.
2. To adhere to university policies and regulations.
3. To monitor the amount and character of any work outside the university, with due regard to responsibilities within it.
4. To give due notice to the university of pending interruption or termination of service.
5. To alert appropriate university offices about alarming or threatening behavior of colleagues and students per [ACD 204-09](#), "Violence in the Workplace" and [SSM 104-02](#), "Handling Disruptive, Threatening, or Violent Individuals on Campus."

Types of Unacceptable Conduct

1. Intentional disruption of university-sponsored or -authorized functions or activities.
2. Incitement of others to disobey university rules.
3. Unauthorized use of university resources or facilities.
4. Forcible detention, physical abuse or threat thereof, harassment, or intimidation of any other member of the university community.
5. Harassment as explained in [ACD 402](#), "Amorous Relationships" and [ACD 401](#), "Nondiscrimination, Anti-Harassment, and Nonretaliation."

Responsibilities to Colleagues

Ethical Standards

1. To respect and defend free inquiry by associates, where in compliance with university regulations.
2. To show professional courtesy and respect for others in exchange of criticism.
3. To strive to be objective during the professional judgment of colleagues.
4. To accept a fair share of the responsibilities for the governance of the university.
5. To actively assist in the professional development of colleagues.

Types of Unacceptable Conduct

1. Evaluating the professional competence of faculty members by criteria not reflective of professional performance.
2. Discriminating against faculty on political grounds, or for reasons of race, religion, sex, gender identity, sexual orientation, national origin, disability, Vietnam era status, recently separated veteran status, other protected veteran status, or for other arbitrary or personal reasons.
3. Breaching established rules governing confidentiality in personnel procedures.
4. Interfering with the academic freedom of faculty members operating within academic unit, college, or university policy.
5. Knowingly violating any academic unit, college, or university policy.
6. Using the creative achievements of colleagues without appropriate consultation and credit.
7. Harassment as explained in [ACD 402](#), "Amorous Relationships" and [ACD 401](#), "Nondiscrimination, Anti-Harassment, and Nonretaliation."

Responsibilities to the Community

Ethical Standards

1. To strive to conduct oneself as a responsible, productive member of the community, aware of and sensitive to the responsibilities and obligations placed on all citizens by a free society.

2. To make it clear in public statements that one's personal opinions are one's own and not those of the university.
3. To conduct one's public and private lives so as to avoid bringing dishonor to oneself and the university.

Types of Unacceptable Conduct

1. Deliberately misrepresenting personal views as an official position of the university or its agencies.
2. Using the university's name or logo to create the impression of university sanction for private activity.
3. Committing a felony or other serious act that demonstrates unfitness to continue as a member of the faculty.

Cross-References

1. [ACD 204-04](#), "Royalties from Instructional Materials"
2. [ACD 204-08](#), "Conflict of Interest"
3. [ACD 401](#), "Nondiscrimination, Anti-Harassment, and Nonretaliation"
4. [ACD 402](#), "Romantic or Sexual Relationships Between Faculty Members and Students"
5. [ACD 204-09](#), "Violence in the Workplace"

and

6. *Student Services Manual*—

- [SSM 104-01](#), "Student Code of Conduct and Student Disciplinary Procedures"
- [SSM 104-02](#), "Handling Disruptive, Threatening, or Violent Individuals on Campus"

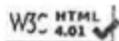
and

- [SSM 107-01](#), "Release of Student Information."

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