



Policy Title: Policy Prohibiting Sex-Based Harassment, Discrimination, and Retaliation

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I. POLICY STATEMENT¹

Seattle University is committed to providing an educational and employment environment that is free from discrimination based on sex, gender, gender identity, sex stereotypes, sexual orientation, pregnancy and related conditions², and retaliation for engaging in protected activity.³

II. PURPOSE & BACKGROUND

Seattle University values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the resolution process during what is often a difficult time for all involved.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, Seattle University has developed policies and procedures that provide prompt, fair, and impartial resolution of allegations of sex-based harassment, discrimination, or retaliation.

III. APPLICABILITY/RESPONSIBILITY

¹ ATIXA 2024 One Policy, One Procedure (1P1P) Model. Use and adaption of this model with citation to ATIXA is permitted through a limited license to Seattle University. All other rights reserved. ©2024 ATIXA

² 34 CFR 106.10

³ 34 CFR 106.8(b)(1)



A. Scope

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the Seattle University community whose acts deny, deprive, or unreasonably interfere with or limit the education or employment, residential, and/or social access, benefits, and/or opportunities of any member of the Seattle University community, guest, or visitor on the basis of that person’s actual or perceived sex, gender, gender identity, sex stereotypes, sexual orientation, or retaliation for engaging in protected activity, is in violation of this policy. This Policy applies to all faculty, staff, students, and other individuals participating in or attempting to participate in Seattle University’s program or activities, including education and employment.

Seattle University will promptly and effectively address any such discrimination of which it has Knowledge/Notice using the resolution in the Sex-Based Harassment, Discrimination, and Retaliation Procedures.

This Policy is only applicable to alleged incidents that occur on or after August 1, 2024. For alleged incidents of sexual harassment occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Title IX Coordinator.

The Resolution Process applicable to this Policy—which is attached as Appendix A—may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this Policy.

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

B. Jurisdiction

This Policy applies to Seattle University’s education programs and activities (defined as including locations, events, or circumstances in which Seattle University exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where Seattle University has disciplinary authority, and to misconduct occurring within any building owned or controlled by a Seattle University-recognized organization. A Complainant does not have to be a member of the Seattle University community to file a Complaint, at the discretion of the Title IX Coordinator.

This Policy may also apply to the effects of off-campus misconduct that limit or deny a person’s access to Seattle University’s education program or activities. Seattle University may also extend jurisdiction to off-campus and/or online conduct when the conduct affects a substantial Seattle University interest.

A substantial Seattle University interest includes:



- 1) Any action that constitutes a criminal offense, as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- 2) Any situation in which it is determined that the Respondent poses an immediate threat to the health or safety of any student, employee, or other individual.
- 3) Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
- 4) Any situation that substantially interferes with Seattle University's educational interests or mission.

For disciplinary action to be issued under this Policy, the Respondent must be a Seattle University faculty member, student, or staff member at the time of the alleged incident. If the Respondent is unknown or is not a member of the Seattle University community, the Title IX Coordinator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). Seattle University can also assist in contacting local law enforcement if the individual would like to file a police report about criminal conduct.

All vendors serving Seattle University through third-party contracts are subject to the policies and procedures of their employers.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environmental external to Seattle University where sex-based harassment policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be remedially by the Title IX Coordinator if brought to their attention.

C. *Online Harassment and Misconduct*

Seattle University policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on Seattle University's education program and activities, or when they involve the use of Seattle University's networks, technology, or equipment. However, nothing in this Policy is intended to infringe upon or limit a person's rights to free speech or a faculty member's academic freedom

D. *Gender Identity or Expression*

Seattle University strives to ensure that all individuals are safe, included, and respected in their working and learning environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse students and



employees. Discrimination and harassment on the basis of gender identity or expression is considered sex-based discrimination and is not tolerated by Seattle University. Discrimination on the basis of gender identity may include (but is not limited to):

- Intentional misgendering;
- Intentional deadnaming;

When the effect is greater than *de minimis* harm⁴.

This Policy should be interpreted consistent with the goals of protecting the inclusion of intersex, transgender, transitioning, agender, nonbinary, and gender-diverse students and employees, including:

- Maintaining the privacy of all individuals consistent with law;
- Ensuring all students have equal access to educational programming, activities, and facilities, including restrooms and locker rooms;
- Ensuring all employees have equal access to employment opportunities and work, service, or health-related facilities;
- Encouraging all students and employees to respect the pronoun usage and identities of all members of the Seattle University community.

IV. DEFINITIONS

A. Prohibited Behavior

1) Sex-Based Discrimination

Sex-based discrimination is different treatment with respect to an individual’s employment or participation in an education program or activity based, in whole or in part, upon the individual’s actual or perceived sex, gender, gender identity, sex stereotypes, sexual orientation and/or pregnancy or related conditions. Sex-Based Discrimination can take two primary forms:

- a. Disparate Treatment Discrimination:** Any intentional differential treatment of a person or persons that is based on an individual’s actual or perceived sex, gender, gender identity, sex stereotypes, sexual orientation and/or pregnancy or related conditions and that:
 - Excludes an individual from participation in;
 - Denies the individual benefits of; or
 - Otherwise adversely affects a term or condition of an individual’s participation in a Seattle University program or activity.
- b. Disparate Impact Discrimination:** Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:

⁴ 34 CFR 106.31(a)(2)



- Excludes an individual from participation in;
- Denies the individual benefits of; or
- Otherwise adversely affects a term or condition of an individual’s participation in a Seattle University program or activity.

2) **Sex-based Discriminatory Harassment** Unwelcome conduct on the basis of actual or perceived sex, gender, gender identity, sex stereotypes, sexual orientation and/or pregnancy or related conditions that:

- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person’s ability to participate in or benefit from Seattle University’s education program or activity.

3) **Sex-based Harassment:**⁵

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex⁶—including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity—that is:

a. Quid Pro Quo Harassment: Quid pro quo harassment is when an employee, agent, or other person under Seattle University’s education program or activity explicitly or impliedly conditioning the provision of such aid, benefit, or service, on a person’s participation in unwelcome sexual conduct.⁷

b. Hostile Environment Harassment: Hostile environment harassment occurs when

- unwelcome sex-based conduct, that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person’s ability to participate in or benefit from Seattle University’s education program or activity⁸

c. Constitutes one or more of the following specific offenses:

i. Sexual Assault: Unlawful sexual intercourse or any sexual act—including “rape,” “sodomy,” “sexual assault with an object,” or “fondling”—directed against another person, without the consent of the other person, including instances

⁵ 34 CFR 106.2 (Definition, “sex-based harassment”). (Applicable under Title IX, Title VII, and the Fair Housing Act)

⁶ Throughout this Policy, “on the basis of sex” means conduct that is sexual in nature, or that is directed to the Complainant because of their actual or perceived sex or gender identity.

⁷ 34 CFR 106.2 (Definition, “Sex-based harassment”)(1) Quid pro quo harassment

⁸ 34 CFR 106.2 (Definition, “Sex-based harassment”)(2) Hostile environment harassment



where the victim is incapable of giving consent.⁹

- a) **Rape:** Penetration of another person, without the other person’s consent, including instances in which the other person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
 - b) **Sodomy:** Oral or anal penetration of a person without that person’s consent, including instances in which the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
 - c) **Sexual assault with an object:** Use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person without the consent of the other person, including instances in which the other person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
 - d) **Fondling:** Touching of the private body parts (breasts, buttocks, groin) of another person, or causing another person to touch one’s own private parts intentionally for a sexual purpose, without the consent of the other person, including where the other person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
 - e) **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees by which marriage is prohibited by Washington state law.
 - f) **Statutory rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent in the state of Washington.¹⁰
- d. Dating Violence:** Violence¹¹ committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the victim **and** where the existence of such a relationship shall be determined based on consideration of the following factors: length of the relationship, type of the relationship, frequency of the interaction between the parties involved in the relationship.¹²
- e. Domestic Violence:** Felony or misdemeanor crimes committed by a person who:

⁹ 34 CFR 106.10(3). This definition of sexual assault does not constitute a chargeable offense under the Policy. It is a description encompassing the six chargeable offenses listed below it.

¹⁰ Definition from Federal Bureau of Investigations as required by 34 CFR 106.2 (Definition, “Sex-based harassment”)(3)(i)

¹¹ For purposes of this Policy, violence is defined as intentionally or recklessly causing the Complainant physical, emotional, or psychological harm. Legitimate use of violence for self-defense is not chargeable under this Policy because the purpose is safety, not harm. Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.

¹² 34 CFR 106.2 (Definition, “Sex-based harassment”)(3)(ii)



- is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of the state of Washington or a person similarly situated to a spouse of the Complainant;
 - is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
 - shares a child in common with the Complainant; **or**
 - commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of the state of Washington.¹³
- f. **Stalking:** Engaging in a course of conduct¹⁴ on the basis of sex that is directed at a specific person and that would cause a reasonable person¹⁵ to:
- Fear for the person’s safety, or
 - Fear for the safety of others, or
 - Suffer substantial emotional distress.^{16 17}

4) **Other Prohibited Behavior**

The following inappropriate behaviors include actions that, although they may not fall within the definitions of sex-based discrimination or sex-based harassment above, violate the University’s community standards and sometimes also the law. Therefore, actions or interactions falling within one of the definitions below violate this Policy.

- a. **Sexual Exploitation:** Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another that does not constitute sex-based harassment as defined above for their own benefit or for the benefit of anyone other than the person being exploited. Examples of sexual exploitation include, but are not limited to:
- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed);

¹³ 34 CFR 106.2 (Definition, “Sex-based harassment”)(3)(iii)

¹⁴ For purposes of this definition, “A ‘course of conduct’ requires that there be more than one incident and the conduct must be directed at a specific person. Stalking can occur in person or using technology, and the duration, frequency, and intensity of the conduct should be considered. Stalking tactics can include, but are not limited to watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks. (Federal Register, Vol 89, No. 83, 04/29/2024, p. 33523). Merely annoying conduct, even if repeated, is a nuisance, but is not typically chargeable as stalking.

¹⁵ Reasonable person is an objective standard meaning a person in the Complainant’s shoes (having similar characteristics/demographics to the Complainant).

¹⁶ In the context of stalking, a Complainant is not required to obtain medical or other professional treatment and counseling is not required to show substantial emotional distress.

¹⁷ 34 CFR 106.2 (Definitions, “Sex-based harassment”)(3)(iv)



- Invasion of sexual privacy (*e.g.*, doxing/doxxing);
 - Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression;
 - Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography;
 - Causing another to engage in sex work/Prostituting another person;
 - Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity;
 - Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (*e.g.*, spoofing);
 - Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity;
 - Knowingly soliciting a minor for sexual activity;
 - Engaging in sex trafficking;
 - Knowingly creating, possessing, or disseminating child sexual abuse images or recordings;
 - Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually-related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (*i.e.*, Deepfakes, AI, etc.);
 - Creating or disseminating images or videos of child sexual exploitation or abuse;
 - Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity.
- b. ***Sex-Based Bullying:*** Repeated and/or severe, aggressive behavior that is likely to intimidate or intentionally hurt, control, or physically diminish the person to whom the behavior is targeted, when such behavior does not constitute speech or conduct



that is otherwise protected by academic freedom.

- c. **Sex-Based Endangerment:** Threatening or causing physical harm; extreme verbal, emotional, or psychological abuse; or other conduct that threatens or endangers the health or safety of any person or damages their property.
- d. **Sex-Based Hazing:** Any sexual or sex-based act or action that meets the definition of “hazing” under the University’s [Policy on Hazing](#).
- e. **Retaliation:** Any adverse action against any person—including intimidation, threats, coercion, or discrimination—by a Seattle University student, employee, or other person authorized by Seattle University to provide aid, benefit, or service under Seattle University’s education program or activity, that is done:
 - for the purpose of interfering with any right or privilege secured by law or Policy; or
 - because the person against whom the action is taken has engaged in protected activity, including:
 - reporting information;
 - making a Complaint;
 - testifying, assisting, or participating in or refusing to participate in any manner;
 - in an investigation or resolution process under the Procedures related to this Policy, including an informal resolution process, or in any other appropriate steps taken by Seattle University to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects.¹⁸

The exercise of academic freedom does not constitute retaliation. It is also not retaliation for Seattle University to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under this Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

- f. **Unauthorized Disclosure:** Distributing or otherwise disclosing or publicizing materials created during an investigation or resolution process, except as required by law or as expressly permitted by Seattle University; or publicly disclosing a person’s personally identifiable information without authorization or consent.^{19 20}

- g. **Failure to Comply/Process Interference:**

¹⁸ 34 CFR 106.2 (definition of “retaliation”).

¹⁹ 34 CFR 106.44(j)

²⁰ Nothing in this section restricts the ability of the Parties to: obtain and present evidence, including by speaking to witnesses (as long as it does not constitute retaliation under this Policy), consult with their family members, confidential resources, or Advisors; or otherwise prepare for or participate in the Resolution Process.



- Intentional failure to comply with the reasonable directives of the Title IX Coordinator in the performance of their official duties, including with the terms of a no contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an agreement achieved through informal resolution
- Intentional failure to comply with mandated reporting duties as defined in this Policy
- Intentional interference with the Title IX resolution process, including but not limited to:
 - Destruction of or concealing of evidence
 - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
 - Intimidating or bribing a witness or party

B. Consent means knowing, voluntary, and clear permission, through word or action, to engage in mutually agreed upon sexual activity or contact. Consent is not demonstrated by silence or the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent. Consent must be ongoing, and it may be withdrawn at any time when the withdrawal is reasonably and clearly communicated. If consent is withdrawn, sexual activity should cease within a reasonably immediate time. Consent to one form of sexual activity or contact does not imply consent to others, nor does past consent imply present or future consent. Consent to engage in sexual activity or contact with one person does not imply consent to engage in sexual activity or contact with another person or the same person in the future. Moreover, a current or previous intimate relationship is not sufficient to constitute consent.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity. Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to be kissed back.

If consent is not clearly communicated prior to engaging in the activity, consent may be given by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

Additionally, going beyond the boundaries of consent is prohibited. Therefore, consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). Moreover, unless a sexual partner has expressly consented to



physical roughness, such as slapping, hitting, hair-pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault, and if an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected. A failure to honor such limitations or expectations can constitute sexual assault.²¹

Consent cannot result from the use of coercion, intimidation, force, or threats. Additionally, consent cannot be obtained from an individual who is incapable of giving consent because the person:

- Is under the legal age to give consent (16 years of age in Washington); or
- Has a mental, intellectual, or physical disability that renders them incapable of giving consent; or
- Is otherwise incapacitated (as defined below), including through the consumption of alcohol or other drugs.

Proof of consent or non-consent is not a burden placed on a party. Instead, the burden remains on Seattle University to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

- 1) **Force:** is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

- 2) **Coercion:** means unreasonable pressure to engage in an act, omission, or activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in an activity, including sexual activity, that they want to stop, or that they do not want to go past a certain point, continued pressure beyond that point can be coercive. Coercion is evaluated based on frequency, intensity, isolation, and duration of the pressure involved.

- 3) **Incapacitation:** A state in which a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing or informed consent (e.g., to understand the “who, what, when, where, why, and how” of an interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or

²¹ Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual.



unconscious for any reason, including because of alcohol or other drug consumption.

This definition also includes situations in which a person is suffering from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

B. Other Defined Terms

Admission: selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by Seattle University.²²

Advisor: means a person chosen by a party or appointed by the university to accompany the Party to meetings related to the Resolution Process and/or to advise the party on that process.

Applicant: means one who submits an application, request, or plan required to be approved by Seattle University as a condition of becoming a student or employee.²³

Coercion: is defined above in section B2.

Complainant:

- A student or employee of Seattle University who is alleged to have been subjected to conduct that could constitute sex discrimination under this Policy; or
- A person other than a student or employee of Seattle University who is alleged to have been subjected to conduct that could constitute sex discrimination under this Policy at a time when that individual was participating or attempting to participate in Seattle University's education program or activity.²⁴

Complaint: means an oral or written request to Seattle University that objectively can be understood as a request for Seattle University to investigate and make a determination about alleged discrimination under this Policy.²⁵

Confidential employee:

- An employee of Seattle University whose communications are privileged or confidential under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties

²² 34 CFR 106.2 (definition of "admission").

²³ 34 CFR 106.2 (definition of "applicant").

²⁴ 34 CFR 106.2 (definition of "complainant").

²⁵ 34 CFR 106.2 (definition of "complaint").



to which privilege or confidentiality applies;

- An employee of Seattle University who has been designated as confidential for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee’s confidential status is only with respect to information received about sex discrimination in connection with providing those services; or
- An employee of Seattle University who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee’s confidential status is only with respect to information with respect to information received while conducting the study.²⁶

Consent: is defined above in section B.

Counter-Complaint: means a Complaint made in response to an initial Complaint a Respondent to the initial Complaint.

Decision-maker: refers to those who have decision-making and/or sanctioning authority within Seattle University’s Resolution Process for alleged violations of this Policy.

Employee: means a person employed by Seattle University either full- or part-time, including faculty members, and including student employees when acting within the scope of their employment.

Final Determination: means a conclusion by the standard of proof that the alleged conduct did or did not violate policy.

Finding: means a conclusion by the standard of proof that the alleged conduct did or did not occur as alleged (as in a “finding of fact”).

Force: is defined above in section B1.

Harm/Endangerment:

- threatening or causing physical harm;
- extreme verbal, emotional, or psychological abuse; or
- other conduct which threatens or endangers the health or safety of any person or damages their property.

Incapacitation (or incapacity or incapacitated): Is defined above in section B3.

Intimidation: Implied threats or acts that cause the listener reasonable fear of harm.

Knowledge: means when Seattle University receives notice of conduct that reasonably may constitute sex-based harassment, discrimination, or retaliation in its education program or activity.

Notice: means when an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of discriminatory, harassing, and/or retaliatory conduct.

Party: means a complainant or respondent.

²⁶ 34 CFR 106.2 (definition of “confidential employee”).



Peer retaliation: means Retaliation by a student against another student.²⁷

Pregnancy or related conditions:

- Pregnancy, childbirth, termination of pregnancy, or lactation;
- Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.²⁸

Privacy: means that information related to a complaint will be shared with a limited number of Seattle University employees who “need to know” in order to assist in providing supportive measures or evaluating, investigating, or resolving a Complaint, as determined in Seattle University’s sole discretion.

Recognized Student Club: means a group of students with a designated purpose that has fulfilled all the requirements necessary for recognition status as set forth by the Center for Student Involvement for the set academic year.

Recognized Student Organization: means a group of students with a designated purpose that is institutionally supported like an arm of an office (i.e. student government).

Relevant: related to the allegations of sex discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged sex discrimination occurred.²⁹

Remedies: measures provided, as appropriate, to a complainant or any other person Seattle University identifies as having had their equal access to Seattle University’s education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person’s access to Seattle University’s education program or activity after Seattle University determines that sex discrimination occurred.³⁰

Respondent: a person who is alleged to have violated Seattle University’s prohibition on sex discrimination.³¹

Sanction: a consequence imposed on a Respondent who is found to have violated this Policy.

Sex: includes sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Student: means a person who has gained admission to Seattle University.³²

Supportive Measures: means individualized measures offered as appropriate, as reasonably

²⁷ 34 CFR 106.2 (definition of “peer-retaliation”)

²⁸ 34 CFR 106.2 (definition of “pregnancy or related conditions”).

²⁹ 34 CFR 106.2 (definition of “relevant”).

³⁰ 34 CFR 106.2 (definition of “remedies”).

³¹ 34 CFR 106.2 (definition of “respondent”).

³² 34 CFR 106.2 (definition of “student”).



available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- Restore or preserve that party’s access to Seattle University’s education program or activity, including measures that are designed to protect the safety of the parties or Seattle University’s educational environment; or
- Provide support during the grievance procedures, or during the informal resolution process.³³

Title IX Partners: The Title IX Coordinator and any Investigators, Decision-makers, University-Provided Advisors, Informal Resolution Facilitators, or other individuals trained to serve in a role that aids in the Resolution Process.

V. POLICY REQUIREMENTS

A. Prohibited Conduct

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discrimination, harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections above describe the specific forms of legally prohibited discrimination, harassment, and retaliation that are also prohibited under Seattle University Policy. When speech or conduct is protected by academic freedom, it will not be considered a violation of Policy, though Supportive Measures will be offered to those impacted.

Seattle University reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under Seattle University Policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, contact the Title IX Coordinator.

B. Seattle University Title IX Coordinator Contact Information³⁴

Seattle University has appointed Elizabeth Trayner as the Title IX Coordinator to coordinate Seattle University’s compliance with federal, state, and local civil rights laws and ordinances.

Elizabeth Trayner, Ed.D.
Assistant Vice President for Institutional Equity/Title IX Coordinator/504 Coordinator
Office of Institutional Equity
Loyola 300
901 12th Street

³³ 34 CFR 106.2 (definition of “supportive measures”).

³⁴ 34 CFR 106(c)(1)(i)(C)



Seattle, Washington 98122
206-220-8515
ois@seattleu.edu
www.seattleu.edu/equity

C. External Contact Information

Concerns about Seattle University’s application of this Policy and compliance with certain federal civil rights laws may also be addressed to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: 800-421-3481
Facsimile: 202-453-6012
TDD#: 877-521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

OR

Office for Civil Rights (OCR)
Central Building
810 3rd Ave., Ste. 750
Seattle, WA 98104-1627
or: <https://seattle.gov/civilrights/file-complaint>

For Complaints involving employee-on-employee conduct: [Equal Employment Opportunity Commission](#) (EEOC)

D. Mandated Reporting and Confidential Employees

1) Mandated Reporters

All Seattle University faculty and staff (including student employees), other than those deemed Confidential Employees, are Mandated Reporters and are required to promptly report all known details of actual or suspected sex-based discrimination, harassment, and/or retaliation to appropriate officials immediately, although there are some limited exceptions. Supportive measures may be offered as the result of such disclosures without formal Seattle University action.

Complainants may want to carefully consider whether they share personally identifiable information details with Mandated Reporters, as those details must be shared with the Title IX Coordinator.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or Policy



violations, and these employees will immediately provide notice to the Title IX Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

A Mandated Reporter who is themselves a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

Failure of a Mandated Reporter, as described in this section, to report an incident of which they become aware is a violation of Seattle University Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a person engaging in potentially harassing behavior is themselves a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Policy.

2) Confidential Employees

To enable Complainants to access support and resources without filing a Complaint and initiating the complaint resolution process, Seattle University has designated specific employees as Confidential Employees. Those designated by Seattle University as Confidential Employees are not required to report actual or suspected discrimination, harassment, or retaliation in a way that identifies the Parties. They will, however, provide the Complainant with the Title IX Coordinator's contact information and offer options and resources without any obligation to inform an outside agency or Seattle University official unless a Complainant has requested that the information be shared.

Confidential Employees are: 1) Those with confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and counselors; 2) Those whom Seattle University has specifically designated as confidential for purposes of providing support and resources to the Complainant; and 3) Those conducting human subjects research as part of a study approved by Seattle University's Institutional Review Board. For confidentiality to apply, the individual must be in a confidential relationship with the person reporting at the time of receiving Notice.

At Seattle University, if a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following Confidential Employees:

- Counseling and Psychological Services (CAPS)
- Student Health Center
- Campus Ministers working within the scope of their ministerial role
- Clients at Seattle University Law School Clinics
- Seattle University Ombudsperson

The employees falling within one of the categories of confidential employees, above, will maintain confidentiality except in extreme cases of immediacy or threat or danger or abuse of a minor, elder, or individual with a disability, or when required to disclose by law or court order.



Confidential employees who receive Notice within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, visitor, or parishioner.

3) Unaffiliated Third Parties

In addition, Complainants may speak with individuals unaffiliated with Seattle University without concern that this Policy will require them to disclose information to the institution without permission. Such individuals may include:

- External, licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- External clergy members/chaplains
- Non-University Attorneys
- Service providers providing services through the University's [Employee Assistance Program](#)
- Service providers providing services through [TimelyCare](#)
- External Sports Medicine Doctors or Sports Medicine Psychologists.

E. Reports and Complaints of Sex-Based Discrimination, Harassment, and/or Retaliation

1) Reports and Complaints

A Report provides Notice to Seattle University of an allegation or concern about discrimination, harassment, or retaliation and provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures. A Complaint provides Notice to Seattle University that the Complainant would like to initiate an investigation or other appropriate resolution procedures pursuant to the Resolution Process attached at Appendix A.

Reporting carries no obligation to initiate a Complaint, and in most situations, Seattle University is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances in which Seattle University needs to initiate a resolution process even where the Complainant does not wish to do so. Such circumstances include a pattern of behavior, allegations of severe misconduct, or a compelling threat to the health and/or safety of the University or University community members. If a Complainant does not wish to file a Complaint, Seattle University will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice, because doing so allows Seattle University to discuss and/or provide supportive measures, in most circumstances. A Complainant or other individual may initially make a Report and may decide at a later time to make a Complaint.



2) How to Make a Report or Complaint

Reports or Complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- a. Filing a Complaint with, or giving verbal Notice directly to, the Title IX Coordinator. Such a Complaint may be made at any time (including during non-business hours) by using the telephone number, email address, or mail to the office of the Title IX Coordinator provided in subsection B, above. As discussed above, filing a Complaint will initiate the Resolution Process described in Appendix A.
- b. Submitting an online Report at https://cm.maxient.com/reportingform.php?SeattleUniv&layout_id=11. You may submit anonymous Report, but doing so may give rise to a need to try to determine the Parties' identities. Although measures intended to protect the community or redress or mitigate harm may be enacted, anonymous Report typically limits the University's ability to investigate, respond, and provide remedies, depending on what information is shared. It also may not be possible to provide supportive measures to Complainants who are the subject of anonymous Reports.

Reporting carries no obligation to initiate a Complaint, and in most situations, Seattle University is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where Seattle University may need to initiate a resolution process. If a Complainant does not wish to file a Complaint, Seattle University will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice that allows Seattle University to discuss and/or provide supportive measures, in most circumstances.

- c. To make an anonymous report, contact EthicsPoint:
EthicsPoint – a secure reporting tool, with the option to file anonymously
1-888-393-6824 or
<https://secure.ethicspoint.com/domain/media/en/gui/23241/index.html>
- d. For incidents involving students, you may also contact the Office of the Dean of Students:
<https://www.seattleu.edu/deanofstudents/>
206-296-6060 | deanofstudents@seattleu.edu | STCN 140
- e. For incidents involving a faculty or staff member, you may also contact Human Resources:
<https://www.seattleu.edu/hr/>
206-296-5870 | hr@seattleu.edu | CLMB 103
- f. For emergency and after-hours assistance, contact:
<https://www.seattleu.edu/safety/>
206-296-5911 (emergency) or 206-296-5990 (non-emergency)



3) Time Limits on Reporting

There is no time limitation on providing Notice/Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to Seattle University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

Acting on Notice/Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Title IX Coordinator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

F. Supportive Measures

Seattle University, through the Title IX Coordinator, will promptly offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged discrimination, harassment, and/or retaliation.³⁵ Supportive measures are offered, without fee or charge to the Parties, to restore or preserve access to Seattle University's education program or activity, and include measures designed to protect the safety of all Parties and/or Seattle University's educational environment and/or to deter discrimination, harassment, and/or retaliation.

At the time that supportive measures are offered, if a Complaint has not been filed, Seattle University will inform the Complainant, in writing, that they may file a Complaint with Seattle University either at that time or in the future. The Title IX Coordinator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

Seattle University will maintain the privacy of the supportive measures,³⁶ unless (1) doing so impairs Seattle University's ability to provide the supportive measures; (2) it is necessary to disclose the supportive measures to preserve or restore a party's access to the education program or activity; or (3) upon receipt of consent to disclosure from the party receiving the supportive measures.³⁷

Seattle University will act to ensure as minimal an academic/occupational impact on the Parties as possible. Seattle University will implement measures in a way that does not unreasonably burden any party.³⁸

Supportive measures may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance referral

³⁵ 34 CFR 106.44(g).

³⁶ 34 CFR 106.44(g)(4).

³⁷ 34 CFR 106.44(g)(5).

³⁸ 34 CFR 106.44(g)(2).



- Referral for Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact limitations (no contact orders) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

The Parties may seek modification or reversal of Seattle University's decision to provide, deny, modify, or terminate supportive measures applicable to them.³⁹ A request for such a modification should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the definition of supportive measures. Seattle University will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances change materially. Seattle University typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted party(ies) and the Title X Coordinator.⁴⁰

G. *False Allegations and Evidence*

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process under this Policy may be subject to discipline under appropriate Seattle University policies.

³⁹ 34 CFR 106.44(g)(4).

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H. Confidentiality and Privacy

Seattle University makes every effort to preserve the Parties' privacy. Thus, Seattle University will not share the identity of any individual who has made a Complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of discrimination, harassment, or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.⁴¹⁴²

I. Unauthorized Disclosure of Information

Parties and Advisors are prohibited from unauthorized disclosure of information obtained by Seattle University through the Resolution Process, to the extent that information is the work product of Seattle University (meaning it has been produced, compiled, or written by Seattle University for purposes of its investigation and resolution of a Complaint). It is also a violation of Seattle University Policy to publicly disclose work product or a party's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

J. Emergency Removal, Interim Actions, and Leave

Seattle University can act to remove a student Respondent accused of sex-based discrimination or harassment from its education program or activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal.⁴³ This risk analysis is performed by the Title IX Coordinator and may be done in conjunction with the Threat Assessment Team using its standard objective violence risk assessment procedures. Employees are subject to existing policies and procedures for interim actions and leaves.

K. Federal Timely Warning Obligations

Seattle University will follow its standard legal obligations and policies for warning community members when there is an incident that poses a serious or continuing threat of bodily harm or danger to the members of the community.

L. Redhawks Care (Amnesty)

1) Students

At Seattle University, the health, safety, and welfare of our students and community are paramount concerns. All students are expected to inform appropriate officials in the event of any health or safety risk or emergency—including those involving alcohol or drug use—even if violations of the Code of Student Conduct may have occurred in connection with such a risk or emergency. Because the University understands that concern about possible disciplinary action

⁴¹ 20 USC 1232g

⁴² 34 CFR 99

⁴³ 34 CFR 106.44(h).



may deter requests for emergency assistance, the University has adopted the [Redhawks Care Policy](#) to alleviate such concerns and promote responsible action on the part of students.

Therefore, in a situation involving threat or danger to the health or safety of any individual(s), students are expected to:

1. Contact the Department of Public Safety (“DPS”) by calling 5-911 and/or 911 to report the incident on-campus and 911 off-campus;
2. Remain with the individual(s) needing emergency treatment and cooperate with emergency officials, and;
3. Meet with appropriate University officials after the incident and cooperate with Integrity Formation/Office of Institutional Equity procedures following the incident.

To encourage reporting and participation in the process, the University may offer amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident. Granting amnesty is a discretionary decision made by the Office of the Dean of Students, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution. The Office of the Dean of Students will consider the positive impact of taking responsible action in an emergency situation by the reporting student and/or the impact of the emergency on the impacted student when determining the appropriate response for alleged violations of the Code. This response can include not initiating an integrity formation process for a student. The policy does not preclude or prevent actions by police or other legal authorities.

A student’s failure to take responsible action in a risk or emergency situation, however, may void all protections under this provision, may constitute an aggravating factor for purposes of sanctioning, and may lead to further disciplinary actions when such failure to act otherwise constitutes a violation of University rules, regulations or policies.

2) Employees

Sometimes, employees are hesitant to report discrimination, harassment, or retaliation they have experienced for fear of getting in trouble themselves. Seattle University may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

M. Independence and Conflicts of Interest

The Title IX Coordinator manages this Policy and related Processes and acts with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and Processes. Title IX Partners are vetted and trained to ensure they are not biased for or against any party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the Vice President for Diversity and Inclusion at:



Natasha Martin, J.D.
Vice President for Diversity and Inclusion
nmartin@seattleu.edu
(206) 296-6263

Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Title IX Partner should be raised with the Title IX Coordinator.

VI. VIOLATIONS

A. Standard of Proof

As explained in the Resolution Process (Appendix A), Seattle University uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that Seattle University will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s). Respondents are presumed not responsible for alleged sex discrimination until a determination is made at the conclusion of the Resolution Process.⁴⁴

B. Sanction Range

Sanctions for Offenses within this policy range from warning through dismissal/termination. There may also be appropriate educational sanctions assigned in for any of the above violations.

VII. RELATED INFORMATION

Item	Description
University Links	Student Code of Conduct Human Resources Policies Non-Discrimination Policy Pregnancy Policy
Forms	Ethics Point Report Reporting Form
Related Links	Office of Institutional Equity Resources – Get Help VAWA Brochure
Procedures	Appendix A : <i>Resolution Process</i>

⁴⁴ 34 CFR 106.45(b)(3).