

 NORTHEAST OHIO MEDICAL UNIVERSITY	Policy No: 3349-7-10 (HRG)
POLICY TITLE: Affirmative Action, Equal Employment Opportunity and Non-Discrimination/Harassment	EFFECTIVE DATE: September 10, 2010 REVISED AND UPDATED: January 1, 2020
RESPONSIBLE DEPARTMENT: Human Resources	General Personnel

(A) PURPOSE

To establish an Affirmative Action, Equal Education and Employment Opportunity, and Non-Discrimination/Harassment Policy to promote compliance with state and federal laws as well as reinforce NEOMED’s commitment to maintaining a professional and collegial work and learning environment in which all individuals are treated with respect and dignity. Every individual has the right to work and learn in a professional atmosphere.

(B) SCOPE

This Policy applies to all students, faculty, staff, employees and applicants for employment or admission to the University and its programs.

(C) DEFINITIONS

- (1) “Abusive/Bullying Behavior” is the persistent use of offensive conduct that gradually undermines an individual’s self-esteem and confidence. Abusive or Bullying Behavior is different than that of constructive criticism or counseling to address and improve performance. Abusive or Bullying behavior is unprofessional and inappropriate for the workplace.
- (2) “Affirmative Action” is required under Executive Order 11246. It is designed to promote equal educational and employment opportunities for Protected Class members in all policies and decisions affecting employment and education.
- (3) “Applicant” is an individual who has applied for either a specific position at the University, or who has applied for admission to the University.
- (4) “Discrimination” occurs when an adverse employment or education action is taken that is based upon a Protected Class.

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- (5) “Equal Education Opportunity” means that all persons in a Protected Class shall have equal access to participate in educational activities.

- (6) “Equal Employment Opportunity” means that all persons in a Protected Class shall have equal access to positions at the University, limited only by their ability to do their job.

- (7) “Harassment” is an unwelcome, verbal or physical conduct that is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, denies, or limits a Protected Class member’s ability to participate in or benefit from the University’s education and employment programs or educational activities. The Harassment is can form the basis for differential treatment or the creation of a hostile environment.
 - (a) Harassment can include conduct that is deemed by the University to be harmful, threatening, abusive, vulgar, obscene, or hateful.
 - (b) The conduct alleged to constitute harassment under this Policy will be evaluated from the prospective of a reasonable person similarly situated to the complainant, in consideration of all the facts and circumstances.
 - (c) Harassment must be distinguished from behavior which, even though unpleasant or disconcerting, is appropriate to the carrying out of instruction, advisory, or supervisory responsibilities.
 - (d) This definition does not include sexual harassment. See Sexual Misconduct and Harassment Policy No. 3349-10-75.

- (8) “Protected Class” and “Protected Status” are defined by State and Federal law to include age, color, disability, gender identity or expression, genetic information, national origin, race, religion, sex, sexual orientation, transgender status, status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, or veteran status.

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(D) POLICY STATEMENT

- (1) The University is an equal education and employment institution operating under nondiscrimination provisions of Title 41, Ohio Revised Code; Titles VI, VII of the Civil Rights Act of 1964, as amended; and Title IX of the Educational Amendments of 1972, as amended; Executive Order 11246, as amended; Vocational Rehabilitation Act section 504; Vietnam Era Veterans' Readjustment Act, as amended; Age Discrimination in Employment Act of 1967, as amended; Title II of the Genetic Information Nondiscrimination Act of 2008; State of Ohio Executive Order 2019-05D; State of Ohio Administrative Policy HR-14; and Americans with Disabilities Act, as amended as related to admissions, treatment of students, programs and activities, and employment practices.
- (2) NEOMED seeks to promote an environment in which all students, faculty and staff interact on the basis of individual strengths and characteristics, without having such interactions shaped by generalizations or stereotypes based on a person's Protected Status and to encourage constructive thoughtful and sensitive behavior. Harassment and unlawful discrimination are serious offenses that may be cause for disciplinary action.
- (3) Discrimination and Harassment as defined in this policy are prohibited in every aspect of employment, including hiring, layoff, termination, transfer, promotion, demotion, rate of compensation, eligibility for in-service training programs, or terms and conditions of employment.
 - (a) All faculty, staff and students have a responsibility for ensuring that NEOMED's working and learning environment is free from harassment or unlawful discrimination.
 - (b) The University reserves the right to take measures to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile work environment.

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- (c) Abusive/Bullying behavior may be addressed through measures such as remedial action(s), conflict resolution mechanisms, coaching and/or additional civility education trainings.
- (4) Retaliation against person who file complaints or cooperate with the investigation of a complaint of discrimination and/or harassment is a violation of this Policy, as well as the law, and is strictly prohibited.
- (5) Employees, students, or applicants who believe they have experienced harassment, discrimination, or retaliation may report the incident to their supervisor, manager or the Department of Human Resources using the Discrimination Complaint Form.

Faculty, staff and students share the duty to report all instances of Discrimination or Harassment of which they are aware directly to the Department of Human Resources.

An employee or applicant for employment may also file a complaint with one or external agencies.

- (6) The duties and responsibilities of all Departments or Division under this Policy include:
 - (a) Ensuring that Affirmative Action goals are met to the extent possible;
 - (b) Ensuring the management practices prevent Discrimination and support Equal Employment Opportunity (“EEO”);
 - (c) Providing information and resources to supervisors, managers, and employees in support of Affirmative Action, EEO, and non-discrimination;
 - (d) Ensuring that instances of Discrimination are promptly referred to the Department of Human Resources.

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- (e) Ensuring that corrective action steps are properly implemented; and
 - (f) Consulting with the Department of Human Resources to meet obligations under this Policy.
- (7) The duties and responsibilities of the Department of Human Resources include:
- (a) Producing and maintaining the University Affirmative Action Plan;
 - (b) Tracking the outcomes of the Plan;
 - (c) Consulting with the Departments regarding results of the Affirmative Action Planning process and their responsibilities under this Policy;
 - (d) Providing Affirmative Action, EEO, and non-discrimination information and resources;
 - (e) Investigating complaints of Discrimination and Harassment under the Reasonable Person standard and issuing action steps for correction where necessary.
 - (i) If the Department of Human Resources determines that a person intentionally falsely accused another of discrimination or harassment, appropriate actions will be recommended against the person.
 - (ii) Allegations of harassment and unlawful discrimination often involve the collection, use and disclosure of sensitive personal information. All reasonable measures will be taken to maintain confidentiality. Information concerning a Complaint may be provided to appropriate NEOMED officials on a need-to-know basis. Any person knowingly, willfully or negligently breaching

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confidentiality may be subject to sanctions or other appropriate action.

- (iii) All information will be treated as “supplied in confidence for investigatory purposes.” All closed investigatory files will be retained by the General Counsel in accordance with the University’s Record Retention policy.
 - (iv) All investigations will comply with any grant related requirements for notifying the granting agency or removing investigators or other remaining personnel from an award during the pendency of an investigation.
- (8) This Policy will not be interpreted, administered or applied to infringe upon the academic freedom of any faculty, staff or student. The frank discussion of controversial ideas, the pursuit and publication of controversial research and the study and teaching of material with controversial content do not constitute harassment, provided these activities are conducted in an atmosphere of respect.
 - (9) This Policy is not to be interpreted, administered or applied in such a way as to detract from the right and obligation of those in supervisory roles to manage performance and behavior and subsequently discipline employees and students, subject to managerial and instructional policies and procedures.
 - (10) When a faculty member is charged with Harassment or Discrimination, this Policy and the procedures promulgated hereunder will be employed in lieu of the procedures outlined in Faculty Bylaws Appendix D – University Procedure for Sanctions of Faculty, including censure and dismissal for just cause.
 - (11) All faculty, staff and students have an obligation to cooperate in the investigation of any allegations brought forth under this Policy. Faculty, staff and students share the responsibility for preventing and reporting all instances of Discrimination or Harassment of which they are aware.