

# POLICY

Effective Date: June 9, 2009  
 Revised: October 18, 2021  
 Approved by: President Sabah Randhawa

**See Also:**

<b>Document #:</b>	<b>Document Title:</b>
<a href="#">POL-U1600.03</a>	Accommodating Persons with Disabilities
<a href="#">POL- U1600.04</a>	Preventing and Responding to Sex Discrimination,Including Sexual Misconduct
<a href="#">POL-U1600.05</a>	Implementing Affirmative Action Program
<a href="#">POL-U1600.06</a>	Prohibiting Consensual Intimate Personal RelationshipsBetween Supervisors and Supervisees
<a href="#">POL-U5315.21</a>	Protecting Children and Vulnerable Adults and Reporting Concerns of Safety and Welfare
<a href="#">POL-U5410.03</a>	Taking Family or Medical Leave
<a href="#">PRO-U1600.02A</a>	Discrimination Complaint Procedure

**POL-U1600.02                      ENSURING EQUAL OPPORTUNITY AND PROHIBITING DISCRIMINATION AND RETALIATION**

***This policy applies to all employees and all persons that use University facilities or participate in Western Washington University education programs and activities.***

***It applies to incidents that take place at all Western Washington University locations, (e.g. Bellingham campus, satellite locations, Lakewood); locations in the United States where Western Washington University programs are taking place (e.g. field trips, away sporting events); and Western Washington University-sponsored transportation (e.g. buses or vans to off campus events) and to incidents occurring off campus between members of the university community, where the off-campus behavior is alleged to have a negative impact on the learning or work environment.***

Individuals who may use this policy include, but are not limited to:

- Staff
- Faculty
- Students (as defined in the Definitions below)
- Individuals applying for enrollment or employment to the university
- Users of university services

**Authority:** Title VI and Title VII of the Civil Rights Act of 1964, 42 USC 2000d&e; Title IX of the Education Amendments of 1972, 20 USC 1681; The Equal Pay Act of 1963, 29 U.S.C., Chapter



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8 sec. 206(d); Section 503 and Section 504 of the Rehabilitation Act of 1973, 29 USC 701,706; the Age Discrimination in Employment Act of 1967, 29 USC 621; relevant sections of the Violence Against Women Reauthorization Act, 42 USC subchapter III; the Vietnam Era Veterans Readjustment Assistance Act of 1972; the Americans with Disabilities Act of 1990 ADA Amendments Act of 2008; Section 504 of the Rehabilitation Act of 1973; the Civil Rights Act of 1991; the Veteran's Employment Opportunities Act of 1998, 38 USC 4212; the Washington State Law Against Discrimination, Chapter 49.60 RCW; the Immigration and Nationality Act, 8 USC 1324b; and Title II of the Genetic Information Nondiscrimination Act of 2008, RCW 28B.112.040 Sexual misconduct—Definitions, RCW 49.60.180 Unfair practices of employers, WAC 516-21 Student Rights and Responsibilities Code, WAC 516-21-1115 Discrimination and Discriminatory Harassment

### **Introduction:**

Western Washington University is committed to equity and justice, and respect for the rights and dignity of all persons in all that we do. Our strategic goals express that deep commitment. We foster a caring and supportive environment where people are respected and treated fairly. We pursue justice and equity in our policies, practices, and impacts. We commit to providing a learning, living, and working environment free from discrimination and harassment. To fulfill these commitments and advance our core institutional goals, this policy prohibits discrimination and harassment, based on protected status and retaliation.

In addition to having employee mandatory reporting requirements, the University strongly encourages those who have experienced, witnessed, or become aware of conduct that violates this policy to come forward promptly so that the University can take appropriate steps to prevent such conduct from occurring in the future and to ameliorate its effects. The University will protect the privacy of those who come forward to the extent possible and permissible by law.

### **Purpose and Jurisdiction:**

This policy applies to complaints which allege discrimination or harassment based on protected statuses as defined in this policy and complaints of retaliation.

With respect to allegations of sexual or gender-based misconduct, this policy applies to allegations that fall outside the definitions or jurisdiction of the University's Title IX Policy, POL-U1600.04. The University's Office of Civil Rights and Title IX Compliance (CRIC) will determine, based upon the definitions in and jurisdictional requirements of each policy, whether this policy or POL-U1600.04 applies to a specific allegation.

To be considered within the jurisdiction of this policy, the allegations of the concern or complaint presented, if true, must be, wholly or in part, potential violations of this policy and not be governed exclusively by another University policy.

There is no specific timeframe in which a complaint must be made. However, to facilitate a prompt and timely investigation, complaints should be brought forward to the Office of Civil Rights & Title IX (CRIC) as soon as possible after the alleged act of discrimination, harassment, or retaliation. All such incidents should be reported regardless of the amount of

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time that has passed since the alleged violation. Delay in reporting may inhibit the CRTC's ability to investigate or the university's ability to provide prompt corrective action.

### **Definitions:**

#### **Coercion:**

Unreasonable pressure for sexual activity. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Using blackmail or extortion to gain consent is also coercion. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced.

#### **Complainant:**

An individual who was at the time of the alleged conduct participating in the educational program or activity of or employed by the University and who is alleged to be the victim of conduct that could constitute discrimination.

#### **Confidential Resources:**

Providers of medical or mental health services, sexual assault and domestic violence advocacy, or other professional services protected by legal privilege.

#### **Consent:**

Knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent is ongoing and can be withdrawn or revoked at any time. Ongoing consent requires ensuring freely given consent for changes or escalation of sexual activity during a sexual encounter. Because a person has previously consented to a sexual activity or sexual act does not indicate they have given consent for future sexual activity.

A person cannot consent if they are:

- a) unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including the influence of alcohol or another substance, or some other cause.
- b) forced or coerced to participate in the sexual activity. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

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### **Dating Violence:**

Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person (i) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (ii) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- a) The length of the relationship;
- b) The type of relationship; and
- c) The frequency of interaction between the persons involved in the relationship.

### **Discrimination:**

Disparate Treatment: Unfavorable treatment of a person based on that person's protected status or perceived protected status. Discriminatory harassment is a form of disparate treatment discrimination.

Disparate Impact: Neutral policies or practices that have a disproportionate, adverse impact on a group or population based on protected status when the policy or practice lacks substantial legitimate justification.

Failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

### **Discrimination Complaint Procedure:**

The process WWU uses to initiate, informally resolve, and/or investigate allegations that an employee or student has violated this policy's prohibitions against discrimination, harassment, sex/gender misconduct, or retaliation.

### **Discriminatory Harassment:**

Discriminatory harassment is unwelcome conduct, directed at a person because of their protected status, that is severe, persistent, or pervasive, and has the purpose or effect of:

- a) Unreasonably interfering with an individual's work or academic performance; or
- b) Interfering with or limiting the ability of an individual to participate in or benefit from the services, activities or privileges provided by the University; or
- c) Creating an intimidating, hostile, or offensive work, educational, co-curricular, or University living environment, and would have such an effect on a reasonable person taking into consideration the relevant particularized characteristics, perspectives, identities, and circumstances of the person subjected to the conduct.

Discriminatory harassment may include but is not limited to: verbal abuse; epithets or slurs; negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; insulting or obscene comments or gestures; and the display or circulation of written or graphic material

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(including in hard copy, by email or text, through virtual platforms or social media) that denigrates or shows hostility or aversion toward an individual or individuals based on their protected status. Calls, texts, emails, virtual platforms and social media usage by employees can contribute to a hostile work, learning, or living environment, even if they occur away from the workplace premises or outside work hours. Sexual harassment and other gender-based harassment, described further below, are specific forms of discriminatory harassment.

### **Domestic Violence:**

Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Washington, RCW 26.50.010.

### **Education Program or Activity:**

Locations, events, or circumstances in which WWU exercised substantial control over both the Respondent and the context in which the alleged discrimination or harassment occurred. It also includes any building or property owned or controlled by a student organization officially recognized by WWU.

### **Force:**

The nonconsensual use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

### **Formal Complaint:**

A writing submitted by the Complainant or signed by the Director of CRTC or Designee alleging discrimination, harassment, retaliation against a Respondent and requesting that WWU investigate.

### **Gender-Based Harassment:**

Gender-based harassment includes nonsexual acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on a person's gender or nonconformity with gender stereotypes. Such acts or hostility constitute gender-based harassment when:

Such conduct is severe, persistent, or pervasive, and has the purpose or effect of:

1. Unreasonably interfering with an individual's work or academic performance; or
2. Interfering with or limiting the ability of an individual to participate in or benefit from the services, activities or privileges provided by the University; or
3. Creating an intimidating, hostile, or offensive work, educational, co-curricular, or University living environment, and would have such an effect on a reasonable person

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taking into consideration the relevant particularized characteristics, perspectives, identities, and circumstances of the person subjected to the conduct.

### **Incapacitation:**

The physical or mental inability to make informed, rational judgments; to evaluate or control conduct; or communicate or grant consent. Incapacitation is created when the individual is unconscious, asleep, intoxicated, or under the influence of other drugs or is, for any other reason, physically, mentally or legally unable to communicate or grant consent. Incapacitation is not the same as legal intoxication.

A party who engages in sexual conduct with a person who is incapacitated when a reasonable sober person in similar circumstances would have known the person to be incapacitated is responsible for sexual misconduct. It is not a defense that the responding party's belief in affirmative consent arose from their intoxication.

### **Protected Status:**

Race, ethnicity, color, national origin, age, citizenship or immigration status, pregnancy, use of protective leave, genetic status, sex, sexual orientation, gender identity, gender expression, marital status, creed, religion, veteran or military status, disability or the use of a trained guide dog or service animal by a person with a disability.

### **Reasonable Person:**

A hypothetical person similarly situated considering the relevant particularized characteristics, perspectives, identities, and circumstances of the person subjected to the conduct, when using an ordinary degree of reason, prudence, care, foresight, or intelligence whose conduct, conclusion, or expectation in relation to a particular circumstance or fact is used as an objective standard by which to measure or determine something.

### **Respondent:**

An individual who is at the time of the complaint participating in the educational program of or employed by the University and who has been reported to be responsible for conduct that could constitute discrimination while a student or employee of the University. In those cases where a respondent is a student who is employed by the university in a position which is contingent on their status as a student, e.g., a research or teaching assistant, or student government employee, and the alleged conduct took place during work hours, findings and determinations will be referred to the Office of Student Life for disciplinary action, and further employment action may follow a finding of responsibility for violating the Code of Student Conduct.

### **Retaliation:**

Adverse action, which may include intimidation, threats, coercion, or discrimination against any individual because the individual has (or is perceived to have) made a report or complaint, or participated in an investigation, proceeding, or hearing under this policy.

### **Sexual Assault:**

Sexual assault includes the following conduct:

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- a) **Nonconsensual Sexual Intercourse:**  
Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent or capacity to consent, and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.
- b) **Nonconsensual sexual contact:**  
Any actual or attempted sexual touching, however slight, with anybody part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.
- c) **Incest:**  
Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of eighteen (18).
- d) **Statutory Rape:**  
Consensual intercourse between a person who is eighteen (18) years of age or older, and a person who is under the age of sixteen (16).

### **Sexual Exploitation:**

Non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other illicit purpose.

Examples of sexual exploitation may include, but are not limited to: observing another individual's nudity or sexual activity or allowing another to observe nudity or sexual activity without the knowledge and affirmative consent of all participants; non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and affirmative consent of all participants; exposing one's genitals in non-consensual circumstances; and inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity. Under certain circumstances sexual exploitation could constitute sexual harassment under Title IX.

### **Sexual Harassment:**

Any unwelcome sexual advance, request for sexual favor, or other verbal, nonverbal, electronic, or physical conduct of a sexual nature, or based on sex or gender, when:

- a) **Quid Pro Quo:**
  1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic, co-curricular or campus life activities; or
  2. Submission to or rejection of such conduct by an individual is used as the basis for employment or education-related decisions affecting such an individual; or,

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b) **Hostile Environment:**

Such conduct is severe, persistent, or pervasive, and has the purpose or effect of:

1. Unreasonably interfering with an individual's work or academic performance; or
2. Interfering with or limiting the ability of an individual to participate in or benefit from the services, activities or privileges provided by the University; or
3. Creating an intimidating, hostile, or offensive work, educational, co-curricular, or University living environment, and would have such an effect on a reasonable person taking into consideration the relevant particularized characteristics, perspectives, identities, and circumstances of the person subjected to the conduct.

**Stalking:**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person taking into consideration the relevant particularized characteristics, perspectives, identities, and circumstances of the person subjected to the conduct to (a) fear for their safety or the safety of others; or (b) suffer substantial emotional distress.

**Student:**

Any person who:

- a) Has been formally admitted to the University;
- b) Is enrolled in one or more classes at the university, including nonmatriculated international students attending language institutes or foreign study programs;
- c) Is participating in a certificate, degree, distance learning, or professional enrichment program, through extended education and summer programs;
- d) Is participating in a university-sponsored study abroad program;
- e) Was enrolled in a prior quarter or summer session at the university and is eligible to continue enrollment in the quarter or summer session that immediately follows; or
- f) Withdrew from the university after an alleged violation of the Student Conduct Code, for conduct that occurred while they were enrolled in or participating in a program offered by the university [WAC516-21-020]

**Interim Suspension:**

An emergency suspension of a student Respondent pending investigation and resolution of disciplinary proceedings pursuant to the procedure and standards set forth in WAC 516-21-260

**Supportive Measures:**

Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent regardless of whether the Complainant or the Director of CRTC has filed a formal complaint. Supportive measures restore or preserve a party's access to WWU's education programs and activities without unreasonably burdening the other party, as determined through an interactive process between the CRTC Office and the party. Supportive measures include measures designed to



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protect the safety of all parties and/or WWU's educational environment and/or to deter sexual harassment or retaliation.

Supportive measures may include, but are not limited to:

- counseling and other medical assistance,
- extensions of deadlines or other course-related adjustments,
- modifications of work or class schedules,
- leaves of absence,
- increased security or monitoring of certain areas of campus, and
- imposition of orders prohibiting the parties from contacting one another in housing or work situations. Determinations about whether to impose a one-way no contact order must be made on a case-by-case basis

**1. The University is Committed to Ensuring Equal Opportunity and Prohibiting Unlawful Discrimination in All Aspects of Employment and for Students in Educational and Extracurricular Programs and Activities**

Discrimination or harassment of any kind based on a protected status is prohibited under this policy.

All members of the University community are expected to create and maintain an environment that is free of discrimination and harassment and in which employees, students, applicants, and visitors are treated with dignity and respect.

The CRTC Office will respond to all oral, written, and electronic concerns or complaints of conduct that may violate this policy.

Western reserves the right to address unwelcome and/or disruptive conduct that does not violate the provisions of this policy. Addressing such conduct will not result in the imposition of discipline under this policy, but discipline may be pursued under other University policy (i.e., student code, faculty handbook, employee handbook, etc.) as appropriate. Such behavior may additionally be addressed through remedial actions, education, conflict resolution, coaching, and/or other informal resolution mechanisms.

For assistance with conflict resolution and other informal resolution techniques and approaches, employees should contact the Office of Human Resources, and students should contact the Office of Student Life.

**2. The President, as Delegate of the Board of Trustees, Ensures the University Shall Comply with Applicable Civil Rights Laws**

- a) The President delegates chief responsibility for compliance with civil rights laws to the Director, Office of Civil Rights and Title IX Compliance.

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Vice Presidents are responsible for ensuring compliance with this policy within their divisions.

- b) Director, Office of Civil Rights and Title IX Compliance shall:
1. In collaboration with other units, develop, monitor, and enforce University policies governing recruitment and selection to remove barriers to equal employment opportunity and prevent unlawful discrimination.
  2. Oversee the investigation of complaints of discrimination, and issue investigative reports to the appropriate officers of the university for action.
  3. In collaboration with other units, ensure fairness and equity in the administration of personnel actions such as hiring, promotion, separation, compensation, benefits, transfers, layoffs, returns from layoff, discipline, University- sponsored training, education, tuition assistance, and social or recreational programs.
  4. In collaboration with other units, ensure equal opportunity in the recruitment and admission of students, and in the operation of all University programs, activities, and services.
  5. Cooperate with federal and state agencies in fulfilling University obligations under civil rights laws of the United States and the State of Washington.

### **3. The University Provides a Procedure for Investigating Complaints of Discrimination and Seeking Assistance**

The University is committed to resolving complaints and concerns of discrimination, including harassment, at the earliest and most informal level, depending on the nature of the complaint. It is also committed to conducting investigations in a timely and effective manner, adhering to the principles of due process in all investigations, and providing prompt corrective action if discrimination is found to have occurred. No individual shall be penalized or retaliated against in any way by a member of the university community for their participation in this complaint procedure.

Individuals who believe they have been subject to discrimination or harassment based on a protected status are encouraged to contact the CRTC Office, Western Washington University, Old Main 345, MS 9021, 516 High Street, Bellingham, WA 98225; 360.650.3307 (voice) or 711 (Washington Relay); [crtc@wwu.edu](mailto:crtc@wwu.edu). Director of the CRTC is the University's Title IX and ADA Coordinator.

- a) Complaints of discrimination will be promptly and equitably addressed. See PRO-U1600.02A Discrimination Complaint Procedure.

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- b) Director, CRTC, designees, and other University officials can take proactive steps to prevent harassment from continuing or escalating and to protect or otherwise assist the parties involved.
- c) CRTC provides complainants and respondents with process information and relevant resources throughout the initiation, investigation, and resolution of a complaint. CRTC also provides general information on resources pertaining to alleged discrimination and/or harassment violations.

#### **4. Complaint Parties have the Right to an Advisor or Support Person**

In all proceedings under this procedure, complainants and respondents have the right to and will be provided with the same opportunities to have other individuals present. This includes the right to be accompanied to any meeting under this procedure by an advisor and/or support person of the individual's choice. For unionized employees, this includes the right to have a union representative present. During proceedings under this procedure, advisors and support people may communicate with the individual they are present to support but may not directly address the investigator.

#### **5. The Director of Civil Rights and Title IX Compliance Acts with Independence and Authority Free from Bias and Conflicts of Interest.**

The Director of CRTC oversees all resolutions under this policy and acts to ensure that all Western representatives act with objectivity and impartiality and are assessed with respect to conflicts of interest and/or potential bias.

Concerns or reports of misconduct or discrimination committed by the Director, CRTC should be reported to President or the Office of Compliance. Reports of misconduct or discrimination committed by any other administrator involved in the resolution process should be reported to the Director, CRTC.

#### **6. Protected Speech is Not a Violation of this Policy**

When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of Western policy, though support may be offered to those impacted.

Western recognizes that conduct which does not violate this policy may still have the potential to impact individuals. Where conduct does not violate this policy, Western may still engage in proactive steps to provide support, resources, and alternative or educational programming to address concerns. Conduct which does not violate this policy may still be a violation of another University policy or professional code.

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### **7. CRTC finds Facts by Preponderance Standard and Assesses Conduct Severity by Objective and Subjective Factors**

Allegations of discrimination and supporting evidence will be assessed by application of a preponderance of evidence standard. This is the standard of evidence used in formal investigations of alleged discrimination. The standard is whether it is “more likely than not” that allegation(s) occurred. If the facts found to be true by application of this standard meet the policy definitions of prohibited conduct, a violation of the policy will be found.

CRTC will determine whether alleged discriminatory harassment was severe, persistent or pervasive based on both subjective and objective factors, and the totality of the circumstances surrounding an alleged incident or course of conduct. The University will determine whether the conduct created a hostile environment by examining whether a reasonable person would find the environment hostile or abusive, taking into consideration the relevant particularized characteristics, perspectives, identities, and circumstances of the person subjected to the conduct.

### **8. Online Harassment and Misconduct is Prohibited**

Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., which occurs within the institution’s control (e.g. on Western networks, websites, or using Institution email accounts) will be subject to this policy. When such online conduct occurs outside of Western’s control, we reserve the right to act when the behavior can be shown to cause a substantial on-campus disruption. Off-campus discriminatory or harassing speech by employees, whether online or in person, may be regulated by the University only when such speech is made in an employee’s official or work-related capacity.

### **9. The University Prohibits Retaliation**

The University prohibits retaliation or encouraging others to retaliate against anyone who has either made a complaint or otherwise participated in an investigation. Retaliation will be considered as a separate basis for the filing of a complaint under this policy, whether the original allegation is substantiated. WWU will take responsive action if retaliation occurs.

This policy provision covers anyone reporting or thought to have reported a violation of Western anti-discrimination or retaliation policies or who has otherwise participated in a resolution process as a witness, complainant, respondent, support person, advisor, or any personnel involved in an informal or formal complaint process.

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### **10. University to Provide Interim Measures: Safety Concerns - Support and Resource Referrals**

During and after CRTC's initial meeting with the complainant, CRTC will assess whether immediate action should be taken, including interim measures, to protect the safety of the parties involved and/or other members of the university community. Other university offices, including University Police, Office of Student Life, University Residences, and Human Resources, may be contacted in the event of a safety concern, or to coordinate an interim measure. CRTC may facilitate interim measures to ensure safety and limit the impacts of alleged discrimination while an investigation or informal resolution is ongoing.

Interim supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent regardless of whether the complainant or the Director or designee has filed a formal complaint. Supportive measures restore or preserve a party's access to WWU's education programs and activities without unreasonably burdening the other party, as determined through an interactive process between the Director or designee and the party.

CRTC will share information with the parties involved about available resources that may be helpful, including the Counseling Center, Consultation and Sexual Assault Support (CASAS), Domestic Violence and Sexual Assault Services (DVSAS), and the Employee Assistance Program (EAP).

Supportive measures and reporting options are provided for individuals affected by sexual or gender-based harassment, or other sexual misconduct including sexual assault, whether a formal complaint is made. If supportive measures are not provided, the Director, CRTC, must document in writing why this decision was clearly reasonable under the circumstances. Supportive measures for students will be coordinated through the Office of Student Life. Supportive measures taken by WWU on behalf of parties to a sexual or gender-based harassment, sexual assault matter, or other sexual misconduct will be shared by WWU only to the extent reasonably necessary to carry out the terms of the protective or supportive measure or accommodation.

Confidential support resources are available to students through services provided by WWU psychologists, mental health counselors, survivor advocates, and health care professionals; confidential support resources are available to employees through the Employee Assistance Program. Reports to some off-campus support personnel may also be legally privileged, such as reports to clergy, private legal counsel, or health care professionals.

### **11. Employees Must Promptly Report Discriminatory Conduct and/or Retaliation to the CRTC office if They Know of Actual or Suspected Incidents**

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- a) Except for confidential providers, all employees must report known and/or reported incidents of sexual misconduct to their supervisor or the CRTC.
- b) All supervisors are expected to immediately report to CRTC any unlawful discrimination or harassment that they observe or learn about in their areas. Failure to report may constitute a separate violation of this policy.
- c) Individuals should not wait to report conduct of concern until it becomes sufficiently serious to create a hostile environment. Individuals with discrimination or harassment concerns who are comfortable doing so are encouraged to discuss their concerns with the appropriate supervisor or department chair in an attempt to resolve the issue informally.
- d) Individuals with discrimination and harassment concerns may tell the offending person directly that their behavior is inappropriate and to request that they stop the conduct. Individuals are not required to first speak directly with the person engaging in the offending conduct before making a report to their supervisor, department chair, or the CRTC.

### **12. The University Provides Amnesty for Students in Certain Situations**

Complainants and witnesses who in good faith report sexual misconduct will not be subject to alcohol or drug violations of the Code occurring at or near the time of the sexual violence or misconduct unless their own conduct placed another person's health or safety at risk. Without imposing sanctions, Western may initiate educational remedies regarding alcohol or drug use.

### **13. Confidential Information Shall be Handled with Utmost Care**

CRTC handles concerns and complaint information as privately as possible. Although complete confidentiality cannot be guaranteed, CRTC uses discretion in sharing information and shares only on a strict need to know basis. Information provided to the CRTC may be shared with leadership and other individuals in order to investigate and resolve the matter, and as necessary to keep members of the campus community safe. CRTC shares only as much information as is necessary to meet the legitimate need for the information. By law, CRTC records may be subject to release following a public records request, request from an external agency, or court order. In addition, the number of sexual assaults (without any personalizing information) will be provided for the university's Annual Security Report, as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or other applicable law.

Discretion in the sharing of information is important in matters involving allegations of discrimination to protect the integrity of the investigation and involved parties. This does not limit the right of complainants or respondents to access support resources, consult with

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advisors, or participate in related investigations (such as a criminal, or external agency investigation).

Certain types of information are privileged and confidential, such as medical and counseling records. Individuals reporting possible violations of this policy may but are not required to provide this type of information. If it is provided and it is relevant and relied upon by CRTC in its investigation, it will become part of the complaint record and may be shared with the other party to the extent sharing of such information is otherwise required.

### **14. Employees are Required to Cooperate with Investigations**

All University employees are expected to fully cooperate with University complaint investigations and do so in good faith and truthfully.

If, at the conclusion of an investigation, it is determined that a complainant, respondent, or witness knowingly gave false or misleading information, it may be recommended that the individual be subjected to disciplinary action which may include, but is not limited to, written warning, demotion, transfer, suspension, dismissal, expulsion, or termination.

### **15. Filing a False Complaint May be Subject to Sanctions or Discipline**

Filing a false complaint is considered to be serious misconduct and such offenses will be subject to the full range of sanctions and disciplinary measures. A finding that discrimination did not occur may reflect that there was not sufficient evidence to find that it did occur and will not in itself be the basis for a charge of false complaint.

### **16. The University Provides Alternative Complaint Processes**

- a) Internal- A complainant may not elect to use other internal grievance procedures (such as labor agreement grievance procedure) for complaints pertaining to alleged violations of University Policies on Discrimination and harassment.

A complainant alleging sexual violence or other forms of discrimination that may constitute criminal behavior may make a report to University Police or any law enforcement agency that has jurisdiction over the respondent, instead of or in addition to making a complaint under this Procedure.

- b) External- A person who believes that they have been the subject of discrimination prohibited by state or federal law may choose to file a discrimination complaint by contacting one of the following agencies within their established time limits:

Washington State Human Rights Commission  
711 S. Capitol Way, #402  
P.O. Box 42490

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Olympia, WA 98504-2490  
Phone: (800) 233-3247 TTY: (800) 300-7525

U.S. Equal Employment Opportunity Commission  
Seattle Field Office  
909 First Avenue, Suite 400  
Seattle, WA 98104-1061  
Phone: (800) 669-4000  
TTY: (800) 669-6820

U.S. Equal Employment Opportunity Commission 131 M Street, NE  
Washington, DC 20507  
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TTY: (202) 663-4494

U.S. Department of Education Office for Civil Rights  
915 Second Avenue, Room 3310  
Seattle WA 98174-1099  
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U.S. Department of Education  
Office for Civil Rights  
Lyndon Baines Johnson Department of Education Bldg.  
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U.S. Department of Labor  
Office of Federal Contract Compliance Programs Seattle District Office  
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Seattle, WA 98104  
Phone: (206) 398-8005

U.S. Department of Labor  
Office of Federal Contract Compliance Programs Frances Perkins Building  
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Washington, DC 20210 Phone: (800) 397-6251  
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