
ANTI-HARASSMENT POLICY

PURPOSE: Boise State University exists to educate people to become knowledgeable citizens who are actively involved in the communities where they live. Critical to the development of this educated citizenry is fostering an atmosphere of respect and civility. Harassment is contrary to these values and the mission of BSU and will not be tolerated.

All members of the university community must be able to pursue their goals, educational needs, and working lives without intimidation or injury generated by intolerance and harassment. The development of creative, critical thinking skills demands freedom of thought, expression, and exploration. This requires an environment of mutual respect and tolerance for diverse persons, groups, and ideas. The goal of this policy is to promote the environment needed for creative work and study.

This policy addresses harassment in all forms, covering individuals with legally protected status for reasons of race, gender, religion, color, age, national origin, ancestry, or disability, as well as individuals who are harassed for other reasons, such as sexual orientation.

I. Policy Statement

It is the policy of Boise State University that its campuses be places of work and learning which are free from all forms of harassment. Faculty, staff, and students should be aware that harassment of any kind will not be tolerated. All complaints and information will be taken seriously, will be investigated when appropriate, and appropriate corrective action will be taken when warranted by the facts.

II. Scope

This policy applies to all faculty, staff, and students during activities on any university property or any university-related activities occurring away from campus. The university will not tolerate harassment of its faculty, staff, or students by persons conducting business with or visiting the university, even though the persons are not directly affiliated with the university.

III. Definitions

Harassment is conduct towards another person or identifiable group of persons including, but not limited to, unwelcome comments or other conduct that unreasonably interferes with an individual's work or academic performance or creates an intimidating, hostile, or offensive environment for that individual's work, education, or participation in a university activity.

- A. **Racial Harassment:** Racial harassment is conduct directed toward another person (or identifiable group of persons) on the basis of race, color, national origin, or ancestry that has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment for that individual's work, education, or participation in a university activity. The conduct may be words, gestures, or actions.
- B. **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in a university activity;
 - 2. Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting such individual's employment, education, or participation in a university activity; or
 - 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment for that individual's work, education, or participation in a university activity.

IV. Determination of Harassment

To determine whether a particular behavior constitutes harassment, the behavior will be evaluated by considering all available information and data. The university reserves the right to investigate circumstances that may involve harassment in situations where no complaint, formal or informal, has been filed. Sanctions in accordance with this policy may be imposed when it is determined that the policy has been violated.

- A. **Academic Freedom:**

Academic freedom protects the legitimate academic judgments of a faculty member made in furtherance of the institution's educational mission. Intimidation and harassment are inconsistent with the maintenance of academic freedom, and it is the ethical responsibility of faculty members to avoid exploitation of students for private advantage.
- B. **Retaliation Prohibited:**

This policy is intended to encourage faculty, staff, and students to report and address incidents of harassment. Retaliation against faculty members, staff members, or students for reporting or complaining of harassment or enforcing this policy is strictly prohibited. Overt or covert acts of reprisal, interference, restraint, penalty, discrimination, or harassment against an individual or group

for exercising rights under this policy will be subject to appropriate and prompt disciplinary or remedial action.

C. Sanctions:

An individual or group of individuals found to have violated this policy will be subject to disciplinary or remedial action, up to and including termination of employment or expulsion from the university.

The sanctions for conduct that constitutes harassment as defined by this policy are subject to enhancement when such conduct is motivated by bias based on a person's legally protected status as defined by federal and state law: e.g., race, gender, religion, color, age, national origin, sexual orientation, ancestry, or disability. This enhancement of sanction is applicable to university faculty, staff, students, and all recognized student organizations.

D. Reporting:

Persons who believe they have experienced or witnessed harassment should report it to the Affirmative Action Office, a university administrator, or a supervisor. Administrators or supervisors who have knowledge of harassment or receive a complaint shall immediately take action according to the procedures described in this policy. Administrators and supervisors shall make known to all of their members those individuals and offices designated as resources for people seeking assistance with harassment.

The complainant should present the complaint as promptly as possible after the alleged harassment occurs. One consequence of the failure to present a complaint promptly is that it may preclude recourse to legal procedures should the complainant decide to pursue them at a later date.

E. Due Process and Fair Treatment:

Allegations of harassment shall be dealt with in a fair, unbiased, and timely manner. All parties shall be advised of the procedures available to them, and persons against whom allegations of harassment have been made shall be advised of the allegations against them, and shall be accorded a reasonable opportunity to provide information in support of their own position.

F. Confidentiality:

Allegations of harassment, particularly sexual harassment, may involve sensitive disclosures. Confidentiality is required so that those who may have been harassed feel free to come forward and so that reputations may be protected throughout the procedure. Confidentiality is important to the fair investigation of a harassment complaint and all parties to the complaint are encouraged to maintain confidentiality at all times.

Confidentiality, however, must be distinguished from anonymity. It is a requirement of due process and fair treatment that an individual accused of an offense and subject to sanctions be informed of the allegations, which will require disclosure of the identity of the complainant. The complainant must therefore be prepared to be identified.

It should be noted that appropriate supervisors and administrators will be informed about the progress of a complaint and/or investigation on a need to know basis and that actions, such as leave with pay, may be taken at any time to facilitate the resolution of the problem and to ensure a work environment that is free from harassment for all employees.

G. University Jurisdiction:

Allegations of harassment by members of the university in their capacity as members of the university community shall be considered within the jurisdiction of the university to investigate whether or not the alleged harassment occurred on campus, whether or not it occurred during working hours, and whether or not the complainant is a member of the university community.

V. Procedure for Bringing a Complaint of Harassment

- A. A variety of individuals at the institution may receive a complaint of harassment or information that leads them to believe that harassment may have occurred, including deans, directors, supervisors, affirmative action staff, human resources staff, faculty, administrators, staff members, and students. It is the responsibility of the Affirmative Action Office to provide assistance with the resolution of complaints. An administrator, faculty, or staff person who receives a complaint shall report the complaint to the Affirmative Action Office.
- B. COMPLAINT RESOLUTION: A complaint of harassment may be resolved informally or through a formal investigation.
 1. INFORMAL RESOLUTION: If after a consultation with the individual bringing the complaint it is determined that the situation can be corrected without disciplinary action, the complaint may be resolved informally. An informal resolution must be agreed upon by the complaining party, the accused, and the supervisor and/or appropriate administrator. The informal resolution must be reported to the Affirmative Action Office which will document the action and close the case.
 2. FORMAL INVESTIGATION: A formal investigation will be initiated under the following conditions:
 - a) The complainant asks for a formal investigation of the allegations;

OR

 - b) The Affirmative Action Officer or other administrator asks for a formal investigation when the situation cannot be resolved informally and further investigation is warranted by the information available.

Individuals who wish to file a formal complaint against a student for harassment may file using this policy and procedure or they may file a BSU Code of Conduct violation complaint with the ASBSU Judiciary. To file a complaint under this policy, contact the Affirmative Action Office, and to file with ASBSU Judiciary, contact the Student Activities Office in the Student Union Building and refer to the Student Handbook, Student Policies and Procedures. An individual must choose which policy to file the complaint under and may not file under both policies for the same complaint.

VI. Formal Investigative Process

The formal investigative process is initiated through the Affirmative Action Office by the complainant, administrator, or Affirmative Action Officer.

- A. Notification: When a complaint is received the Affirmative Action Office will notify the appropriate faculty and/or administrators up to and including the appropriate vice president about the complaint and investigation. The Affirmative Action Office will notify the parties to the complaint that an investigation will take place. Notification will be made within three (3) working days of receipt of the formal complaint or request for investigation. All parties to the complaint will be advised of their rights in the process under this policy.
- B. The Chair of the Nondiscrimination and Affirmative Action Committee shall appoint to a Complaint Management Team three (3) members of the Affirmative Action Committee who have received appropriate training regarding sexual harassment, complaint management, and disciplinary procedures. The Affirmative Action Officer will sit on the Complaint Management Team as a non-voting member. The Complaint Management Team will be appointed within five (5) working days of receipt of the complaint.
- C. The Affirmative Action Office will contract with an independent investigator/fact finder who will be responsible for obtaining all of the facts of the case including but not limited to gathering documents and conducting interviews. The independent investigator/fact finder will report his or her finding in writing to the Complaint Management Team within thirty (30) calendar days after being contracted.
- D. The findings of fact will be given to the parties to the complaint. The parties to the complaint will have ten (10) working days to review and prepare a response to the findings of fact.
- E. The Complaint Management Team reviews the findings of fact and the response of the parties to the complaint and determines if the policy has been violated. The determination shall be made within ten (10) working days after the Team receives the responses from the parties to the complaint.
 - 1. If it is determined that the policy has not been violated and no corrective action is necessary, the Complaint Management Team notifies, in writing, the parties to the complaint and the immediate supervisor of the accused (in the case of an employee) with copies to appropriate faculty and/or administrators up to and including the vice president. The case is closed and all documents and information are kept in a confidential file in the Affirmative Action Office.

OR

- 2. If it is determined that the policy has been violated and/or corrective action is warranted, the Complaint Management Team issues a report with the determination and recommendations for corrective and/or disciplinary action to the parties to the complaint, the immediate supervisor of the accused (in the case of an employee), and appropriate faculty and/or administrators up to and including the vice president. All documents and information utilized will be kept in a confidential file in the Affirmative Action Office.
- F. The supervisor and appropriate administrator, up to and including the appropriate vice president, determine what action is contemplated and notify the employee or student in writing with a copy to the Affirmative Action Office within three (3) working days of receipt of the Complaint Management Team's determination and recommendations.*
- G. An accused employee has the right to respond to the contemplated action to the supervisor and administrator. An accused student may respond to the administrator responsible for the disciplinary action. The accused has three (3) working days in which to respond to the contemplated action.
- H. The supervisor and administrator, up to and including the appropriate vice president, determine appropriate disciplinary action and notify the accused in writing. If the accused is an employee, a copy of the disciplinary determination is sent to the Affirmative Action Office, Human Resources

Department, appropriate Vice President or President, and individual(s) who brought the complaint. When the accused is a student, a copy of the disciplinary determination is sent to the Affirmative Action Office and the Vice President for Student Affairs. The supervisor and administrator have five (5) working days to determine disciplinary action and notify the appropriate individuals and offices.

- I. Appropriate action is taken by the institution. The action is documented in the appropriate offices, including, but not limited to, the Affirmative Action Office, Human Resources, Office of the Provost, and appropriate Vice President/President. The only documentation placed in the employee's official personnel file is a record of disciplinary action.

*Steps F through I, regarding discipline will be consistent with university policy and state regulations for disciplinary action, and appropriate to the type of position the employee holds.

VII. Grievance Rights of the Accused

An employee has the right to appeal any action under this policy through normal grievance procedures for faculty, classified staff, or professional staff. (Faculty Grievance Procedures - [Policy 4480](#), Classified Employees Grievances and Appeals - [Policy 7440](#), and Professional Staff Employees - Grievances and Appeals - [Policy 7310](#)). A student may appeal the action to the Student Policy Board - [Policy 2030](#) (Student Handbook, Student Policies and Procedures, Hearing Boards).

The time limits set in the policy are designed to facilitate the investigation of complaints of harassment and ensure that they are handled in a timely manner. An extension of time may be allowed at any point in the process for good cause as determined by the Complaint Management Team.

It is the responsibility of the Affirmative Action Office to facilitate the processing of the complaint, to ensure that parties are notified appropriately, and to guarantee that the policy is followed.