



Non-Discrimination Policy & Discrimination Complaint Procedures

I. PURPOSE

Mansfield University is committed to providing a work, educational and residential environment free of unlawful discrimination for its students, employees and campus community members. It is imperative that all employees, students and community members of Mansfield University comply with both the spirit and intent of federal, state and local laws, government regulations, court orders and Mansfield University and Pennsylvania State System of Higher Education policies which prohibit discrimination. In addition, all administrators, faculty, staff and students share a continuing responsibility to behave in a manner which ensures a work, educational and living environment that is free of discrimination. It is the purpose of this policy to set clear expectations for a discrimination free environment, define discrimination, assign responsibilities for ensuring an environment free of discrimination, and provide procedures for handling charges of discrimination, including sexual discrimination and misconduct.

II. SCOPE

This Policy applies to all members of the University community, including students and employees of Mansfield University, as well as to all volunteers, visitors, contracted service providers and vendors for the University. The prohibition against discrimination also applies to applicants for admission or employment and all participants in University-sponsored activities.

III. DEFINITIONS

Unlawful Discrimination: An adverse action or decision that is based on or motivated by an individual's race, color, religion, sex, ancestry, national origin, age, sexual orientation, gender identity/expression, genetic background or veteran's status.

Sexual Discrimination: encompasses all forms of sexual misconduct defined as a variety of sexual or gender-based acts that are perpetrated against another individual without consent or when an individual is unable to freely give consent; including the following : sexual harassment, sexual assault, sexual exploitation, stalking, dating violence and domestic violence. These terms are fully defined in the *Mansfield University Sexual Discrimination and Misconduct Policy – Title IX Policy and Complaint Procedures*.

Complainant: The person who is alleging the occurrence of discrimination.

Respondent: The person whose actions are alleged to have violated this Non-Discrimination Policy.

Retaliation: any adverse treatment that is reasonably likely to deter a Complainant or any other individual from filing a complaint alleging discrimination or from participating in an investigation of a discrimination complaint.

IV. POLICY

It is the policy of Mansfield University to ensure a work, educational and residential environment free of discrimination on the basis of race, color, religion, sex, disability, ancestry, national origin, age, sexual orientation, gender identity/expression, genetic background, or veteran's status. In accordance with state and federal laws

including Title VI of the Civil Rights Act of 1964, Section 1604 of Title VII of the Civil Rights Act of 1964, Executive Order 11246 and 11375, Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act, the Civil Rights Act of 1991, the Pennsylvania Human Relations Act and all other applicable legislation, Mansfield University prohibits and will not tolerate unlawful discrimination. The University also prohibits retaliation against any party for participating in a discrimination investigation.

In addition, Mansfield University is committed to providing equal opportunity and access to educational, employment and contract opportunities for all persons including students and employees. The University will make every effort to provide these opportunities to all persons regardless of race, color, religion, sex, disability, ancestry, national origin, age, sexual orientation, gender identity/expression, genetic background or veterans' status.

Conduct will be deemed discriminatory in accordance with and as defined in applicable state and federal statutes, case law decisions, the related Mansfield University Student Code of Conduct and the Mansfield University Sexual Discrimination and Misconduct Policy – Title IX Policy and Complaint Procedures.

The University, as an institution of higher learning, is committed to the free and vigorous discussion of ideas and issues. This Policy is not intended to curtail constitutionally protected expression, nor is the Policy an attempt to regular conduct that does not constitute discrimination.

V. RESPONSIBILITIES

Mansfield University is responsible for educating all of its students, faculty and staff about what constitutes unlawful discrimination or harassment and what steps will be taken to resolve complaints and will be assisted by the Human Resources and Social Equity Office in this endeavor.

Each manager, director, department chairperson, faculty person and/or administrative officer is responsible within his/her respective area for the implementation, dissemination and explanation of this policy. Assistance in implementation, dissemination and explanation may be obtained by contacting the University's Social Equity Officer (or designee).

VI. PROCEDURES FOR REPORTING, INVESTIGATING AND RESOLVING COMPLAINTS OF DISCRIMINATION (EXCLUDING ALLEGATIONS OF SEXUAL DISCRIMINATION)

A. Informal mechanism for mediation and resolution. Informal review and consultative processes are highly desirable means of resolving problems. Mansfield University believes that a strong, informal system for handling most complaints will encourage resolution. Any person may contact the Social Equity Officer (or designee) for informal discussion, advice and assistance. These contacts will be handled in a confidential manner with information being provided only to the extent necessary to resolve the complaint. Written records associated with the resolution of a problem during these informal proceedings will be kept in the Social Equity Office. Although face-to-face mediation is a valuable and effective tool in the informal resolution process, no Complainant will be required to participate in such face-to-face mediation.

B. Formal mechanism for investigation of complaints of discrimination. (Excluding allegations of Sexual Discrimination) When informal resolution is not chosen or is unsatisfactory, the following guidelines for formal investigation and resolution will apply:

1. Filing a Complaint of Discrimination

- a. **Discrimination by a Faculty Member or Coach:** Formal complaints against an individual covered under the APSCUF collective bargaining agreements (faculty members and coaches) should be filed with the Social Equity Officer (or designee). Complaint forms are available on the Human Resources page of the Mansfield University website or at the Human Resources Office, 112 Alumni Hall.
- b. **Discrimination by a Staff Member or University Officer:** Formal complaints against a staff member (individuals classified as SCUPA, SPFPA, AFSCME or managerial employees) or an officer of the university should be filed with the Social Equity Officer (or designee). The President will be immediately notified in the case of a complaint against an officer or other direct report of the University. Any complaint brought against the Social Equity Officer (or designee) should be filed with the President. Complaint forms are available on the Human Resources page on the Mansfield University website or at the Human Resources Office, 112 Alumni Hall.
- c. **Discrimination by Students:** Formal complaints against a student should be filed with the Social Equity Officer (or designee) and if applicable, the Associate Director of Housing, Dining & Residence Life. Complaint forms are available on the Human Resources page on the Mansfield University website or at the Human Resources Office, 112 Alumni Hall.
- d. **Discrimination by Outside Vendors:** Complaints of discrimination by outside vendors and/or subcontractors should be filed with the Social Equity Officer (or designee). Complaint forms are available on the Human Resources page on the Mansfield University website or at the Human Resources Office, 112 Alumni Hall.
- e. **Discrimination by the President and/or Trustees:** Complaints against the President or a member of the Council of Trustees should be filed with the Social Equity Officer (or designee) who will immediately notify the Office of the Chancellor. Complaint forms are available on the Human Resources page on the Mansfield University website or at the Human Resources Office, 112 Alumni Hall.
- f. **Referral of Complaints:** If an employee (volunteer or contractor) other than the Social Equity Officer (or designee) receives a formal complaint against an employee, student or vendor of the university, the individual receiving the report must immediately notify the Social Equity Officer (or designee) of the complaint. All information imparted by the Complainant regarding the discriminatory behavior must be treated in a confidential manner.

2. Investigation of Complaints

- a. **Timeframe:** The Social Equity Officer (or designee) will initiate an investigation of the alleged discriminatory behavior in accordance with this policy and any applicable collective bargaining agreement provisions. The object of the investigation will be to determine whether there is probable cause to credit the Complainant; the President is charged with determining culpability and imposing any disciplinary measures.

The Social Equity Officer (or designee) shall make every effort to reach a prompt conclusion to his/her investigation. Normally, most investigations can be concluded within 20 days; however up to 60 working days may be necessary to conduct a comprehensive investigation

of a more complex matter. Unless specific circumstances warrant, the investigation will be concluded within this 60 day timeframe. If more than 60 days elapse from the date of the filing of the complaint, without resolution of the investigation, the Social Equity Officer (or designee) will notify the Complainant that the investigation is proceeding and additional time is required.

b. Steps of the Investigation

- i. The Social Equity Officer (or designee) will first interview the Complainant and allow him/her to provide a formal written complaint and present relevant evidence and the names of possible witnesses.
- ii. The Social Equity Officer (or designee) will develop a timeline for completion of the investigation.
- iii. The Social Equity Officer (or designee) will notify the Respondent of the complaint and provide a copy of the formal written complaint or a summary of the Complainant's allegations for his/her review. (Where required under the terms of an applicable collective bargaining agreement, the local union representatives will be notified of the pending complaint investigation.) The Social Equity Officer (or designee) will interview the Respondent and allow him/her to provide a formal written response as well as the names of potential witnesses. The Respondent may, if s/he chooses, be accompanied by a union representative at this and any subsequent meeting with the Social Equity Officer, designee or other university official regarding the complaint of discrimination.
- iv. At his/her sole discretion, the Social Equity Officer (or designee) may determine that a fact-finding conference will assist in the investigative process. If the Social Equity Officer (or designee) chooses such an option, both the Complainant and Respondent will be invited to participate in a joint meeting with the Social Equity Officer (or designee) in which the allegations of discrimination are reviewed and questions are directed to the parties in an effort to verify any facts in dispute. Under no circumstances will the Complainant be compelled to attend such a face-to-face fact finding conference.
- v. The Social Equity Officer (or designee) will conduct interview sessions with all pertinent witnesses and conduct additional interviews with the Complainant or Respondent as necessary to fully investigate the allegations of discrimination and minimize areas of disputed information.
- vi. At the conclusion of the investigation, the Social Equity Officer (or designee) will submit a fact-finding report to the President (or designee); the report will provide a summary of the findings of fact as well as a determination as to whether sufficient probable cause exists to support a finding of discrimination.
- vii. The President and Human Resources (or designees) will conduct a predisposition hearing with the Respondent to advise of the probable cause finding and allow the Respondent a final opportunity to comment or provide additional evidence for consideration.

3. Notification of Results of Investigation

- a. The President will, after considering the fact finding report and any additional information provided by the Respondent in the predisposition hearing, determine culpability and any disciplinary measures to be imposed. The President and Human Resources (or designees) will conduct a final disposition conference with the Respondent and disclose the President's determination and any disciplinary measures to be imposed. Notification to local union representatives will be completed in accordance with any applicable collective bargaining agreement.
- b. The Social Equity Officer (or designee) will notify the Complainant of the findings of the investigation.

4. **Record Keeping.** Any written records associated with a formal investigation will be maintained in the office of the Social Equity Officer (or designee). Information related to any disciplinary action taken will be placed in the respondent's personnel file and retained for the length of time specified by the President or as required under the terms of any applicable collective bargaining agreement.

VII. PROCEDURES FOR REPORTING, INVESTIGATING AND RESOLVING COMPLAINTS OF SEXUAL DISCRIMINATION

A. Complaints against Students. A complaint of sexual discrimination against a student of Mansfield University is governed by the *Mansfield University Sexual Discrimination and Misconduct Policy – Title IX Policy and Complaint Procedures* (University Title IX Policy) in concert with the Mansfield University Student Code of Conduct.

1. A complaint of sexual discrimination against a Mansfield University student may be filed with any of the following:

William Kluge

Chief Conduct Officer

323 Alumni Hall

570.662.4936

wkluge@mansfield.edu

Albert Jones

Title IX Coordinator

327 Alumni Hall

570.662.4980

ajones@mansfield.edu

2. Per the University Title IX Policy, complaints filed with the Chief Conduct Officer, Social Equity Officer (or designee) will be forwarded to the Title IX Coordinator for assessment, implementation of any interim measures, and determination of next steps.
3. In cases referred by the Title IX Coordinator (or designated Title IX Team Member) to the Chief Conduct Officer for disciplinary or remedial action, the Complainant and Respondent student will both have a pre-hearing conference, will both have the opportunity to present witnesses and evidence, will both have the right to one advisor, will both have the right to request accommodations at the hearing so as not to come in contact with or directly view the Complainant or alleged victim, will both receive notice of the steps in the process, and will both have the same appeal rights. All cases referred in this manner can expect to have the investigative results presented at the hearing and are resolved based on the preponderance of the evidence. At the conclusion of any disciplinary proceedings or appeal process, the parties will receive written notification of the findings and any sanctions imposed; the notification will be provided simultaneously to the individual parties.
4. With respect to complaints of sexual discrimination, Informal resolution and/or mediation is not available under the Student Code of Conduct.

B. Complaints against Employees. A complaint of sexual discrimination against an employee of Mansfield University is governed by the *Mansfield University Sexual Discrimination and Misconduct Policy – Title IX Policy and Complaint Procedures* (University Title IX Policy) in concert with this Policy and any applicable collective bargaining agreement and/or management employment policy.

1. A complaint of sexual discrimination against a Mansfield University employee may be filed with the following:

Samantha Holler
Human Resources &
Labor Relations
111 Alumni Hall
570.662.4891
shollar@mansfield.edu

Albert Jones
Title IX Coordinator
327B Alumni Hall
570.662.4980
ajones@mansfield.edu

Complaints filed with the Social Equity Officer (or designee) will be immediately referred to the Title IX Coordinator in accordance with the University Title IX Policy.

2. Under this Policy, the Respondent will receive written notification of the complaint allegations and both the Complainant and Respondent will be provided the opportunity to participate in fact finding interviews and present witnesses and evidence. Both parties have the right to one advisor and employee Respondents may also be accompanied by their respective collective bargaining unit representative. In addition, both parties will have the right to request accommodations at the hearing to avoid direct contact with each other and both parties will have the same appeal rights. At the conclusion of any disciplinary or appeal process, the parties will receive written notification of the findings and any sanctions imposed; the notifications will be provided simultaneously to the individual parties. The matter will be adjudicated based on the preponderance of the evidence standard.

3. Review of Complaints

- a. The Title IX Coordinator or designated Title IX Team member will meet with the Complainant to:
 - i. Explain privileged communication, confidentiality and privacy as defined in the University Title IX Policy and advise what will happen to information that is shared; and
 - ii. Conduct an intake interview if the Complainant chooses to proceed.
- b. The Title IX Coordinator or Title IX Team member will conduct an assessment in accordance with the University Title IX Policy, to determine if the complaint is appropriately classified as sexual misconduct and if a risk of immediate, substantial threat, harm or danger to the Complainant exists, and take one or both of the following actions if warranted: Impose interim measures and/or issue a federal timely warning to the campus community. The Title IX Coordinator's (or designated Title IX Team member's) determinations will be communicated to the Complainant.
- c. The Title IX Coordinator or Team member will determine whether to take no action, pursue an informal resolution, or conduct an investigation, taking into account the Complainant's preferences and any requests for confidentiality or privacy.

- i. Informal Resolution: If agreed to by the parties and deemed appropriate by the Title IX Coordinator or assigned Team member, a complaint of sexual discrimination may be resolved through informal resolution or remediation EXCEPT in complaints of sexual assault, dating violence, domestic violence, stalking or other sexual violence. The Complainant and Respondent will not be required to engage in a face-to-face meeting as part of the informal or mediation process.

The purpose of informal resolution is to encourage the reporting of complaints concerning sexual misconduct and to facilitate satisfactory resolution of the complaint in a manner which addresses the Complainant's concerns and promotes education and prevention. A Complainant may withdraw from the informal resolution process at any time and request that a formal resolution process be pursued. The Title IX Coordinator will determine if a formal resolution process is warranted, taking into account the Complainant's preferences and evaluating if, the facts of the complaint are found to be true, a policy violation has occurred.

- ii. Formal Resolution: Allegations of sexual misconduct may also be addressed through the formal complaint resolution process. The Complainant will be given an opportunity to provide an oral or written statement providing particulars of the alleged sexual misconduct and the names of any witnesses and/or documentation in support of his/her complaint. In the event the Complainant does not wish to provide a written statement, the Title IX Coordinator (or designee) will prepare a written statement. The Title IX Coordinator (or a designee) will conduct the investigation including notifying the Respondent (alleged offender), providing a copy of the written complaint or a summary of the oral complaint, conducting interviews with the Complainant and the Respondent and with anyone who may have witnessed the alleged behavior or who may have information that furthers the investigation. Any person, including the Complainant and Respondent, involved in the formal resolution process may be accompanied by an individual or appropriate union official if s/he desires.

At the conclusion of the investigation, the Title IX Coordinator will submit a fact-finding report to the President (or designee); the report will provide a summary of the findings of fact as well as a determination whether the preponderance of the evidence supports a finding of sexual discrimination.

If sufficient evidence exists, the President and Human Resources (or designee) will conduct a predisposition conference with the Respondent to advise of the findings and allow the Respondent an opportunity to comment or provide additional information for consideration. The Respondent may be accompanied by one advisor and/or a collective bargaining unit representative.

The President (or designee) will, after considering the fact-finding report any additional information provided by the Respondent in the predisposition conference, determine if any disciplinary or remedial measures will be imposed. If disciplinary or remedial action is taken, the Respondent will be notified by the President (or designee) in a final disposition conference and will also be provided a written notice of the discipline. The Title IX Coordinator (or designee) will also notify

the Complainant, in writing, of the results of the investigation and what, if any, action was taken by the University to resolve the Complaint. Notification to local collective bargaining representatives will be made in accordance with any applicable collective bargaining agreement.

The Respondent may appeal the President's (or designee's) decision as provided in the grievance procedures of his/her applicable collective bargaining agreement or as provided in applicable management policies. Written notification of the final appeal determination will be provided to both the Complainant and Respondent.

C. Complaints against Third Parties (campus community member other than student or employee or any individual not affiliated with the University), will be reviewed and assessed by the Title IX Coordinator or a designated Title IX Team Member and a determination will be made regarding options available to address the complaint ensuring students' and employees' safety and full access to expected educational benefits.

D. Complaints against the Title IX Coordinator are governed by the relevant management policies and should be submitted directly to the President of the University. A **Complaint against the President or a member of the Council of Trustees** may be directed to the Office of the Chancellor or to the Title IX Coordinator who will immediately forward the complaint to the Office of the Chancellor.

4. Timeframe for Resolution

The University expects to resolve all reports within 60 days after a complaint is made. However, this timeframe is a guideline and not a rigid requirement. Circumstances, such as the complexity of the allegations, the number of witnesses, the availability of parties or witnesses, a concurrent criminal investigation, intervening University breaks or vacations or other unforeseen circumstances may require the extension of the 60-day timeframe. There may also be times when the criminal authorities request that the University defer a fact-finding investigation until components of the criminal investigation have been completed. However, any extension will not defer the implementation of interim measures to ensure the safety and wellbeing of students and campus, including the availability of counseling and advocacy services. Mansfield University will make every effort to complete the complaint process in a timely manner by balancing thoroughness with fundamental fairness and promptness. The Complainant and Respondent will be notified of any delay in the investigation or resolution process.

5. Communication of Results

At the conclusion of any disciplinary proceedings or appeal process, the parties will receive written notification of the findings and any sanctions imposed; the notification will be provided simultaneously to the individual parties.

6. Record Keeping

Any written records associated with the investigation of a complaint of sexual discrimination will be maintained in the office of the Title IX Coordinator. Information related to any disciplinary action taken will be placed in the Respondent's personnel file and retained for the length of time specified by the President or as required under the terms of any applicable collective bargaining agreement.

7. Professional Conduct and Consensual Relationships

The University's mission is promoted by professionalism in interpersonal relationships. Personal relationships should not conflict with an individual's work or educational experience. A University employee, graduate assistant, or others with professional responsibility or supervision of another who has

real or potential power or authority over that individual in a variety of roles such as supervisor, mentor/advisor, professor, coach, etc. must not abuse that power or authority.

Absent contradictory evidence, amorous and sexual relationships between a student and an individual with professional responsibility for that student, or between an employee and subordinate, or other similar relationships are presumed to be exploitative and constitute unprofessional conduct. The consensual nature of such a relationship does not necessarily constitute a defense to a charge of sexual discrimination or related unprofessional conduct. Therefore, the person in the supervisory or authority role in such situations will be subject to scrutiny if a complaint is leveled by the individual in a subordinate role or by a third party.

8. Retaliation Prohibited

Retaliation against any person who is an alleged victim or target of sex discrimination or sexual misconduct or against any person who assists the University in the investigation of a sexual discrimination/misconduct complaint is prohibited and may result in disciplinary action, up to and including termination of employment or expulsion from the University.

9. False Reporting Prohibited

Discrimination is a serious matter which can have far-reaching effects; therefore false or malicious accusations may result in disciplinary action. The University may take disciplinary action against an individual who knowingly provides false information during the investigation of a complaint of unlawful or prohibited discrimination.