



OLD DOMINION UNIVERSITY

University Policy Template

Policy #6500

CIVILITY IN THE WORKPLACE

Responsible Oversight Executive:	Vice President for Talent Management and Culture
Date of Current Revision or Creation:	August 8, 2022

A. PURPOSE

It is the policy of the Commonwealth to foster a culture that demonstrates the principles of civility, diversity, equity, and inclusion. The purpose of this policy is to uphold this commitment by ensuring that workplace harassment (including sexual harassment), bullying (including cyber-bullying), and workplace violence of any kind are prohibited at Old Dominion University (the University). The University will also maintain a welcoming, safe, and civil workplace for their employees, customers, clients, contract workers, volunteers, and other third parties and increase awareness of all employees' responsibility to conduct themselves in a manner that cultivates mutual respect, inclusion, and a healthy work environment. This policy also communicates a requirement that all employees should be trained to recognize, prevent, and report behaviors that constitute harassment, sexual harassment, intimidation, bullying, cyber-bullying, and threats or violence related to the workplace.

B. AUTHORITY

[Virginia Code Section 23.1-1301, as amended](#), grants authority to the Board of Visitors to make rules and policies concerning institution. Section 7.01(a)(6) of the [Board of Visitors Bylaws](#) grants authority to the President to implement the policies and procedures of the Board relating to University operations.

[Virginia Department of Human Resource Management Policy #2.35 - Civility in the Workplace](#)

C. DEFINITIONS

Administrative and Professional (AP) Faculty - Employees who perform work directly related to the management of the educational and general activities of the institution, department or subdivision or whose professional positions serve the educational, research, athletic, medical, student affairs, administrative, and development functions or activities of the institution.

Bullying - Disrespectful, intimidating, aggressive, and unwanted behavior toward a person that is intended to force the person to do what one wants, or to denigrate or marginalize the targeted person. The behavior may involve a real or perceived power imbalance between the aggressor and the targeted person. The behavior typically is severe or pervasive and persistent, creating a hostile work environment. Behaviors may be discriminatory if they are predicated on the targeted person's protected class (e.g., using prejudicial stereotyping or references based on the targeted

person's characteristics or affiliation with a group, class, or category to which that person belongs, or targeting people because they are in a protected class). In determining whether conduct is severe, persistent, or pervasive, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; and (d) the perspective of a "reasonable person" in the same situation as the person subjected to the conduct. Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of a violation.

Classified Staff - A salaried employee whose terms and conditions of employment are subject to the [Virginia Personnel Act, Code of Virginia Section 2.2-2900 et seq., as amended](#), and who is employed in a classified position.

Complainant - A University community member or visitor who files a complaint under this policy.

Complaint - The written document or verbal statement of alleged facts used to initiate action under this policy.

Complaint Commencement Date – The date on which the complainant provides a written complaint or a verbal statement that includes a statement of alleged facts describing the offense.

Cyber-Bullying- Using technology to intentionally harm others through hostile behavior, threatening, disrespectful, or intimidating messages. Bullying that occurs via the Internet, cell phones, or other devices (e-mails, IMs, text messages, blogs, pictures, videos, postings on social media, etc.). Pretending to be the victim or spreading rumors or visual images online in order to denigrate or marginalize the targeted person. Behaviors may be discriminatory if they are predicated on the targeted person's protected class (e.g., using prejudicial stereotyping or references based on the targeted person's characteristics or affiliation with a group, class, or category to which that person belongs, or targeting people because they are in a protected class). In determining whether conduct is severe, persistent, or pervasive, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; and (d) the perspective of a "reasonable person" in the same situation as the person subjected to the conduct. Petty slights, annoyances, and isolate incidents (unless extremely serious) will not rise to the level of a violation.

Discrimination – Inequitable and unlawful treatment based on an individual's protected characteristics or statuses, race (or traits historically associated with race including hair texture, hair type, and protective styles such as braids, locks, and twists), sex, color, national origin, religion, age, veteran status, sexual orientation, general identity, pregnancy, genetic information, political affiliation, marital status, disability, or any other status protected by law, that excludes an individual from participation in an educational program or activity, denies the individual the benefits of an educational program or activity, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in an educational program or activity. Discrimination does not have to include intent to harm or involve repeated incidents.

Discriminatory Harassment – A form of discrimination in which unwelcome verbal, written, or physical conduct is directed toward an individual on the basis of his or her protected characteristics or statuses by any member of the University community. Harassment does not have to include intent to harm or involve repeated incidents. Harassment violates this policy when

it creates a hostile environment, as defined below, or when enduring the conduct becomes a condition of continued employment.

Sexual Harassment – A form of discrimination based on sex. It is defined as unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature including: verbal (e.g., specific demands for sexual favors, sexual innuendos, sexually suggestive comments, jokes or a sexual nature, sexual propositions, or sexual threats); non-verbal (e.g., sexually suggestive emails, other writings, articles or documents, objects or pictures, graphic commentaries, suggestive or insulting sounds or gestures, leering, whistling, or obscene gestures); or physical (e.g., touching, pinching, brushing the body, any unwelcome or coerced sexual activity, including sexual assault). Sexual harassment can involve persons of the same or different sexes. Sexual harassment may also include sex-based harassment directed toward stereotypical notions of gender identity or a failure to conform to those gender stereotypes.

The types of sexual harassment prohibited by this policy are:

- (1) Quid Pro Quo – Term or condition of employment, which occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a University activity are conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity;
- (2) Hostile Environment – May be created by unwelcome conduct that is sufficiently severe, persistent, or pervasive, and objectively offensive that it interferes with, limits, or denies the ability of an individual to participate in or benefit from educational programs, services, opportunities or activities, or the individual's employment access, benefits, or opportunities. Mere subjective offensiveness is not enough to create a hostile environment. In determining whether conduct is severe, persistent, or pervasive and thus creates a hostile environment, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; and (d) the perspective of a "reasonable person" in the same situation as the person subjected to the conduct. Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of a violation.

Non-Discriminatory Harassment - Any targeted or directed unwelcome verbal, written, social, or physical conduct that either denigrates or shows hostility or aversion towards a person not predicated on the person's protected class. In determining whether conduct is severe, persistent, or pervasive, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; and (d) the perspective of a "reasonable person" in the same situation as the person subjected to the conduct. Petty slights, annoyances, and isolate incidents (unless extremely serious) will not rise to the level of a violation.

Receiving Area - The appropriate division to receive and coordinate response to complaints or policy violations. The following is a list of designated receiving areas:

Affiliation Type	Division	Receiving Area
AP Faculty	Division of Talent Management and Culture	Employee Relations
Classified Staff	Division of Talent Management and Culture	Employee Relations

Wage Employee	Division of Talent Management and Culture	Employee Relations
Teaching and Research Faculty	Academic Affairs	Office of the Provost
Student	Student Engagement and Enrollment Services	Dean of Students Office
Third-Party Affiliate	Administration and Finance	

Retaliation - Overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or group exercising rights under this policy.

Teaching and Research Faculty - Employees whose work assignments primarily involve instruction, research, and scholarly activities, and who hold academic rank/titles.

Third Parties - Individuals who are not state employees, but who have business interactions with state employees. Such individuals include, but are not limited to:

- Customers
- Clients
- Students
- Interns
- Vendors
- Contractors
- Volunteers
- Applicants
- Affiliate organizations
- General public

Wage Employee - A non-salaried employee who receives pay for hours worked and is not covered by the provisions of the Virginia Personnel Act. Wage employees are sometimes referred to as hourly employees. Wage employees have no guarantee of employment for a particular term or a particular daily or weekly work schedule; they serve at the will of the designated hiring official and may be terminated at any time.

Workplace - Any location, either permanent or temporary, where an employee performs any work-related duty or is representing the agency in this capacity. This includes, but is not limited to, the buildings and surrounding perimeters, including the parking lots, field locations, alternate work locations, clients' homes or offices, outside meetings, conferences and conventions, and travel to and from work assignments. It also applies to written, verbal, or graphic communications delivered in person, via phone, message, computer, or social media.

Workplace Violence - Any physical assault, threatening behavior, or verbal abuse occurring in the workplace by employees or third parties. Threatening behaviors create a reasonable fear of injury to another person or damage to property or subject another individual to extreme emotional distress.

D. SCOPE

This policy applies to conduct on property owned, leased, or controlled by the University involving students, employees, visitors to the institution, contractors working on campus who are not University employers, and students and employees participating in University-sponsored activities. Students include all persons admitted to the University who have not completed a program of study for which they were enrolled; student status continues whether the University's programs are in session. Employees include all full-time or part-time classified staff, administrative and professional faculty, teaching and research faculty, and wage/hourly

employees who are paid by the University. Visitors include, but are not limited to, vendors and their employees, parents of students, volunteers, guests, uninvited guests, and all other persons located on property owned, leased, or otherwise controlled by the University. This policy also is applicable to any conduct that occurs on non-University property that has continuing effects that create a hostile environment on campus. To the extent that the alleged conduct would satisfy the definition of sexual harassment under both this policy and the Policy on Title IX, the Policy on Title IX will supersede this policy for resolution of complaints and reports of such alleged conduct.

Conduct that violates this and related policy provisions and that occurs outside of the workplace may be grounds for disciplinary actions, up to and including termination, when the conduct has a sufficient nexus to the workplace or the University's mission, operations, services, or reputation.

E. POLICY STATEMENT

The University provides a welcoming, safe, and civil workplace for employees, customers, clients, contract workers, volunteers, and other third parties. This policy increases awareness of all employees' responsibility to conduct themselves in a manner that cultivates mutual respect, inclusion, and a healthy work environment.

The University is also committed to promoting a work and education environment that is free from harassment and discrimination based on race, sex, color, national origin, religion, age, veteran status, sexual orientation, gender identify, disability, pregnancy, political affiliation, marital status, and genetic information, or based on any other status protected by law. The University will take steps to prevent recurrence of harassment and/or discrimination when incidents occur, remedy any discriminatory effects on the complainant and others (including measures to protect other students, if appropriate), and address complaints or reports of retaliation.

The University promotes the lawful exercise of First Amendment freedoms or rights as set out in University Policy 1700, Freedom of Expression of Expression/ Demonstration Policy.

This policy is not intended to conflict with language in existing University policies and statements protecting academic freedom, including the [ODU Policy 1002- Code of Ethics](#) and the following policies and statements that appear in the [Teaching and Research Faculty Handbook](#): "Academic Freedom," "Statement on Freedom of Expression," "Professional Ethics," "Tenure," and the "Faculty Code of Conduct."

F. PROCEDURES

Prohibited Conduct

This policy strictly forbids harassment (including sexual harassment), bullying behaviors, and threatening or violent behaviors of employees, applicants for employment, customers, clients, contract workers, volunteers, and other third parties in the workplace and university campus community. This includes behaviors that undermine team cohesion, staff morale, individual self-worth, productivity, and safety which are also not acceptable. In determining whether conduct is severe, persistent, or pervasive, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; and (d) the perspective of a "reasonable person" in the same situation as the

person subjected to the conduct. Petty slights, annoyances, and isolate incidents (unless extremely serious) will not rise to the level of a violation.

Refer to the [Policy Guide- Prohibited Conduct/Behaviors](#) for more information.

General Policy Provisions	Application
Manager and Supervisor Requirements	<ul style="list-style-type: none"> • Stop any prohibited conduct of which they are aware, whether or not a complaint has been made. • Express strong disapproval of all forms of prohibited conduct. • Intervene when they observe any acts that may be considered prohibited conduct. • Take immediate action to prevent retaliation towards the reporting party or any participant in an investigation. • Take immediate action to eliminate any hostile work environment when there has been a complaint of workplace harassment. • Take immediate action to address any threats or violent behavior that could endanger the safety of employees and others in the workplace or result in damage to physical structures.
Failure to Respond	Managers and/or supervisors who fail to take appropriate action upon becoming aware of the behavior shall be subject to disciplinary action, up to and including termination.
Allowing Prohibited Conduct to Continue	Managers and/or supervisors who allow observed or reported prohibited conduct addressed in this policy to continue upon becoming aware of the behavior may be considered parties to the offense and subject to disciplinary action, up to and including termination.
Engaging In Prohibited Conduct	Any employee who engages in conduct prohibited under this policy or who encourages or ignores such conduct by others shall be subject to corrective action, up to and including termination.
Violations Outside the Workplace	Violations occurring outside the workplace may be grounds for disciplinary action, up to and including termination.

How to File a Complaint

Discriminatory Harassment

[Harassment Illegal under Equal Employment Laws]

[Discrimination Complaint Policy and Procedures](#)

Complaints of discrimination and harassment should be made to the Office of Institutional Equity and Diversity (OIED). The OIED is responsible for overseeing the investigation of all complaints and reports of alleged discrimination, and harassment and retaliation and is trained to help individuals who file complaints find resources, investigate, and informally resolve matters as appropriate. Discriminatory workplace harassment complaints under this policy can be filed as per the procedures set forth in [University Policy #1005- Discrimination Policy](#).

The OIED serves as an impartial resource for the resolution of concerns and complaints under this policy. Therefore, the OIED does not serve as an advocate for either the complainant or the respondent. The OIED will explain to all identified parties the procedures outlined below, including confidentiality. The OIED will provide all identified parties with information regarding the complaint procedure, including the availability of informal resolution options.

Workplace Complaints

Complaints of workplace harassment should be made to the appropriate receiving area. This area will be responsible for overseeing the investigation of all non-discriminatory complaints and reports of workplace conflict, workplace bullying, and cyber-bullying. Designated contacts are trained to investigate individuals who file complaints find resources, and informally resolve matters as appropriate.

Complaints made to the Division of Talent Management and Culture under this policy can be filed by using the online [Non-Discriminatory Workplace Incivility](#) form.

The Division of Talent Management and Culture serves as an impartial resource for the resolution of concerns and complaints under this policy. Therefore, the HR does not serve as an advocate for either the complainant or the respondent. HR will explain to all identified parties the procedures outlined below, including confidentiality. HR will provide all identified parties with information regarding the complaint procedure, including the availability of informal resolution options.

Informal Workplace Complaint Procedure

1. Informal Discussion: The Division of Talent Management and Culture shall encourage an employee who has a complaint of non-discriminatory workplace harassment to discuss the complaint with the supervisor and/or individual who took the action that is the basis for the complaint.
2. Informal Resolution: Both parties to the complaint shall attempt to affect a resolution of the complaint through informal discussions where applicable. The Division of Talent Management and Culture may advise parties of informal resolution options (such as mediation) and may facilitate resolution of the complaint or report if appropriate.
3. The complainant may request, at any time during the informal process, to proceed with a formal complaint, as described below.

Although there are no time limitations for filing a complaint, the passage of time may impact the University's ability to investigate and/or resolve the complaint.

Formal Workplace Complaint Procedure

The complainant is not required to submit a written complaint to commence a formal investigation. In the case of a reported concern by a third party, the third party will be instructed to refer the alleged victim to the complaint process. The complaint may be supplemented by additional supporting documents, evidence, recommendations for witnesses to be interviewed during the course of the investigation. The complainant must also disclose if a formal complaint has been filed with another University, State, or Federal entity for the same offense.

Complaints may also be initiated by scheduling a meeting to provide a verbal statement. Nevertheless, individuals who believe they have been the subject of conduct in violation of this policy are encouraged to make detailed written statements of the facts, including the name(s) of the offending individual(s) and any witness(es), promptly after an incident. It is a violation of this policy for a supervisor or another employee to interfere with an individual's right to file a complaint under this policy.

1. The appropriate receiving area will confirm that the matter involves an alleged violation of this policy, and a referral will be made to the appropriate on-campus or off-campus resources to address the issues.
2. The formal complaint will be assigned a representative from the appropriate receiving area and co-investigators may be assigned as appropriate. Externally trained investigators may be assigned in certain cases if appropriate. All investigations of complaints alleging workplace violations of this policy shall be overseen by the Assistant Vice President for Human Resources the Associate Vice Provost for Faculty Affairs and Strategic Initiatives.
3. The appropriate receiving area will discuss the complaint with the complainant and the respondent as appropriate, including providing information about the formal investigation procedure and resources. The receiving area will explain to the parties that each has the opportunity to provide evidence and to suggest witnesses to be interviewed during the course of the investigation.
4. The investigator(s) will conduct a prompt, adequate, reliable, and impartial investigation of the complaint. All parties will be notified of the expected timeframe for the investigation process. The appropriate receiving area will consider whether involvement of other University administrators is appropriate.
5. Both the complainant and respondent will have the same opportunity to review and respond to evidence obtained during an investigation before the investigation reports are released. The University shall strive to make the process transparent and fair to all parties.
6. The investigator(s) shall prepare a written investigation report fairly summarizing the relevant evidence. The report shall be provided to both the complainant and the respondent concurrently.
7. Reporting the Investigation Results:

- a. In the case of an AP Faculty, classified staff, and/or wage/hourly employee respondent, once the investigation is completed, the investigation report shall be provided to the respective Vice President or designee for evaluation and determination of responsibility.
 - b. In the case of an instructional faculty member respondent, once the investigation is completed, the investigation shall be provided to the Provost or designee for evaluation and determination of responsibility. Sanctions for teaching and research faculty will be determined by the Provost in accordance with the [Teaching and Research Faculty Handbook](#). Possible sanctions include, but are not limited to, mandatory counseling, written reprimand, training, or the initiation of termination proceedings.
8. Determinations of responsibility under this policy shall be made using the preponderance of the evidence standard. Preponderance of the evidence means that it is more likely than not, or greater than 50%. The parties will be informed in writing of the determination within 15 business days from the issuance of the investigation report. The written determination should include a rationale explaining the reason(s) for the decision. The Division of Talent Management and Culture and/or Academic Affairs shall be provided a copy of the written determination.

Anonymous Complaints

Anonymous complaints may also be filed by using the online complaint form, which can be completed online, or hand delivered.

The receiving area may be limited in the ability to investigate an anonymous complaint unless sufficient information is furnished to enable the ability to conduct a meaningful and fair investigation. If the complainant requests confidentiality, anonymity, or that an investigation not be conducted, the University may be limited in the actions it is able to take and its ability to respond while respecting the request.

Every effort will be made to respect and safeguard the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the allegation and any necessary steps to eliminate the conduct, prevent its recurrence, and address its effects. Information related to a report or complaint under this policy will only be shared with those individuals within the active review, investigation, or resolution of the concern. While not bound by confidentiality, these individuals must be discreet and respect the privacy of all individuals involved in the process.

Retaliation

Employees and third parties who, in good faith, make complaints of inappropriate workplace conduct or provide information related to such complaints will be protected against retaliation.

If retaliation occurs, the complainant(s) should report the retaliation through procedures for filing complaints of retaliation. These are outlined in [University Policy #3020 - Whistleblower Retaliation Policy](#).

Deferral of Action

Should a complaint under this policy be raised in another internal procedure (for example, in the classified grievance process, faculty grievance process, or mediation process) the other internal procedure may be deferred until the conclusion of an initiated investigation.

Complainants may pursue external complains with State and Federal agencies. These agencies include but are not limited to the Commonwealth of Virginia Department of Human Resource Management, the U.S. Equal Employment Opportunity Commission, the Office for Civil Rights, the U.S. Department of Justice, and the U.S. Department of Labor, including the Office of Federal Contract Compliance Programs. Any external complain t of allegations covered by this policy will result in the dismissal of the internal complaint upon notice to the University that an external complaint has been filed.

Sanctions

Sanctions and due process procedures will be followed in accordance with the following:

1. Sanctions for students will be determined in accordance with the student regulations and policies. Sanctions may include, but are not limited to, disciplinary penalties described in the [Code of Student Conduct](#), suspension or dismissal/expulsion.
2. Sanctions for teaching and research faculty will be determined by the Provost in accordance with the [Teaching and Research Faculty Handbook](#). Possible sanctions include, but are not limited to, mandatory counseling, written reprimand, training, or the initiation of termination proceedings.
3. Sanctions for AP faculty and other non-classified staff shall be determined by the supervisor of the employee in consultation with the Division of Talent Management and Culture and in accordance with [Board of Visitors Policy 1490, Administrative and Professional Faculty](#). Possible sanctions include, but are not limited to, counseling, training, reassignment, or the initiation of termination proceedings.
4. Sanctions for classified employees will be determined by the supervisor of the employee in consultation with the Division of Talent Management and Culture in accordance with the [Commonwealth's Standards of Conduct Policy 1.60](#). Sanctions that may be imposed by the University include, but are not limited to, verbal counseling, additional training, and issuance of a Written Notice, suspension, or termination of employment.
5. The University reserves the right to require a Contractor to remove from campus any employee who violates this policy. Contractors shall assign for duty only employees acceptable to the University.
6. Visitors who violate this policy will be directed to leave campus immediately and may be subject to a permanent ban from campus.

Documentation and Recordkeeping

The Division of Talent Management and Culture will maintain, in a confidential manner, all complaints, reports, witness statements, documentary evidence, written investigation reports, resolutions, and associated documents for a period consistent with Federal and State record retention policies for paper or electronic files.

G. RECORDS RETENTION

Applicable records must be retained and then destroyed in accordance with the [Commonwealth's Records Retention Schedules](#).

H. RESPONSIBLE OFFICER

Assistant Vice President for Talent Management and Culture

I. RELATED INFORMATION

[Virginia Department of Human Resource Management Policy #1.60 - Standards of Conduct](#)

[Virginia Department of Human Resource Management Policy #1.75 - Use of Electronic Communications and Social Media](#)

[Virginia Department of Human Resource Management Policy #2.05 - Equal Employment Opportunity](#)

[Board of Visitors Policy 1014 – Threat Assessment](#)

[Board of Visitors Policy 1530 – Code of Student Conduct](#)

[University Policy 1002 - Code of Ethics](#)

[University Policy 1005 - Discrimination Policy](#)

[University Policy 1008 – Policy on Title IX- Sexual Harassment and Sex or Gender-Based Discrimination](#)

[University Policy 3012 – Safety and Security Policy](#)

[University Policy 3020- Whistleblower Retaliation Policy](#)

[Disruptive Behavior Policy for Faculty and Faculty Administrators](#)

[Information Technology Standard 09.1.0 - Acceptable Use Standard](#)

POLICY HISTORY

Policy Formulation Committee (PFC) & Responsible Officer Approval to Proceed:

<u>/s/ JaRena Whitehead</u>	<u>August 3, 2022</u>
Responsible Officer	Date

Policy Review Committee (PRC) Approval to Proceed:

<u>/s/ Donna W. Meeks</u>	<u>May 3, 2022</u>
Chair, Policy Review Committee (PRC)	Date

Executive Policy Review Committee (EPRC) Approval to Proceed:

<u>/s/ September Sanderlin</u>	<u>August 3, 2022</u>
Responsible Oversight Executive	Date

University Counsel Approval to Proceed:

<u>/s/ Allen T. Wilson</u>	<u>August 4, 2022</u>
University Counsel	Date

Presidential Approval:

<u>/s/ Brian O. Hemphill, Ph.D.</u>	<u>August 8, 2022</u>
President	Date

Policy Revision Dates: August 8, 2022

Scheduled Review Date: August 8, 2027