

Protocol for Addressing Bias-Related Incidents and Hate Crimes

January 2014



Table of Contents

Mandatory Reporting Policy	3
Definitions	3
Staff Response to a Bias-Related Incident Report	6
Understanding the Different Forms	8
Offering Safety, Security, & Support	9
After a Bias-Related Incident Form is Submitted	9
Bias-Related Incident Process Overview	10
Points to Share	10
Student Development Resources	11
Programmatic Response to a Bias-Related Incident	13

Mandatory Reporting Policy

The University has adopted a policy that defines ALL staff members as mandatory reporters EXCEPT doctors, counselors, and ordained members of the clergy acting in that capacity. As a mandatory reporter, if you become aware of possible discrimination, including harassment, you must inform the University within 24 hours by contacting the Title IX/504 Coordinator and Equity Compliance Officer or one of the deputy coordinators. Reporting is required regardless of whether the discrimination involves students, faculty, staff, or visitors to the University. You must provide your name when making a report as a mandatory reporter.

Definitions

Bias-related incidents and/or hate crimes impede our ability to become communities of inclusive excellence. The Division of Student Development outlined this protocol to ensure that staff members are clear regarding **University expectations** related to supporting students who report experiencing discriminatory harassment, including a bias-related incident or hate crime, by any faculty or staff member, student, or campus visitor. This document also contains resources that will assist staff in reporting and responding to incidents. This protocol offers assistance in positively shaping the climate for students and diversity.

This document will assist staff in responding to a bias-related incident, whether reported by an individual or witnessed in some capacity.

- Incidents may occur where the responsible individual is known (e.g., comments or actions of an individual, jokes, vandalism, theme event or party) or unknown/unidentifiable (e.g., shouting a bias-related comment from a car or home, graffiti, vandalism)
- Incidents could include comments made using technology (e.g., texting, email) and social media (e.g., Facebook, Twitter, Instagram, websites).

The University has adopted the following definitions relating to bias-related harassment, hate crimes, hate incidents, and sexual harassment:

University of Dayton Discrimination and Anti-Harassment Policy

Discriminatory Harassment: Harassment based upon an individual's actual or perceived membership in a protected class. Harassing conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating.

Protected class: Means age, race, color, creed, religion, ancestry, national or ethnic origin, sex/gender, sexual orientation, disability, genetic information, military status, veteran status, familial status or any other protected category under applicable local, state or federal law, ordinance or regulation.

Bias Related Harassment - University of Dayton Student Handbook

Abuse: Physical abuse, fighting, cutting, slapping, throwing objects, verbal abuse, threats, intimidation, bias related harassment, bullying/harassment (any action that causes mental distress including but not limited to threats, intimidation, and/or communication that continues after being asked to discontinue contact), coercion, and/or other conduct (attempted or actual) that threatens or endangers the health or safety of any person is not permitted. Unauthorized recording or use of a recording (audio, video, or photographic) of another person without their knowledge and approval, when such a recording causes injury or distress, is prohibited. *Note: Self-defense or responding to a physical attack with a counter physical response is not encouraged but may become necessary in a rare number of cases. Self defense may be considered a University policy violation if the actions are not immediately followed by attempt by the student to remove themselves from the situation. In cases where both parties are claiming self-defense and an investigation lends no information to justify one claim over another, both students will be notified of possible violation.*

Bias Related Harassment: Incidents of harassment that are directed at any person, group or institution based on actual or perceived race, color, religion, age, gender, ethnic/regional/national origin, nationality, disability, sex or sexual orientation.

Hate Crime - Public Safety

Hate Crime: A hate crime is a *criminal offense* committed against persons, property or society that is motivated, in whole or in part, by an offender's bias against an individual's or a group's race, religion, ethnic/national origin, gender, age, disability or sexual orientation.

There is no criminal code for a "Hate Crime". A "Hate Crime" is a category or classification of crimes that are motivated in whole or in part, by the offender's bias against a group or individual. Most "Hate Crimes" are violations of federal laws (Title 18) pertaining to Civil Rights Violations such as fair housing, denial of medical benefits, voting rights, hate groups targeting persons or property, etc.

The criminal code for Ohio that relates to hate crimes is Ohio Revised Code (ORC) **2927.12, Ethnic Intimidation**. Ethnic Intimidation applies when a criminal offense has been committed against an individual by reason of the race, color, religion, or national origin of another person or group of persons. The five specific crimes that can be applied to Ethnic Intimidation are: **Criminal Damaging, Criminal Mischief, Telecommunications Harassment, Menacing and Aggravated Menacing**.

Hate Incidents: Hate incidents involve behaviors that, though motivated by bias against a victim's race, religion, ethnic/national origin, gender, age, disability or sexual orientation, are not criminal acts. Hostile or hateful speech or other disrespectful/discriminatory behavior may be motivated by bias, but is not illegal.

For questions relating to hate crimes contact Public Safety at (937) 229-2133.

Staff Response to a Bias-Related Incident Report

This section outlines staff expectations within the Division when responding to a bias-related incident. At the end of the document, department-specific information and resources are provided.

After learning about an incident that may involve bias, staff should:

- **Discuss what happened – listen and be supportive.** Always ask the victim or witness if he or she wishes you to share his or her name with the University. In speaking with a victim or witness, you SHOULD NOT promise confidentiality. Staff members do not have a special privilege or ability to maintain the confidentiality of reports shared with them. If someone begins to discuss an incident of discrimination, you might want to say something like the following:

I appreciate your willingness to share this information with me. Please know that I am here to help in any way that I can. If you would like to file a formal complaint with the University, I will help you connect with [the appropriate Designated Reporting Office], so that it can begin investigating this matter. It is important that you understand that I cannot promise to keep what you share confidential. If you are still comfortable speaking with me, I am here to listen. If not, please let me help you connect with one of the University's confidential resources [Health Center (9-3131)/Counseling Center (9-3141)/Campus Ministry (9-3339)]. Above all, please know that the University takes this matter seriously and wants to help.

- **Call Public Safety, if appropriate.** For example, Public Safety **should be** called when there is an issue concerning student safety and if a student indicates that he/she would like for the Police to be called. Public Safety can also assist in documenting an incident and with an investigation (as appropriate). Public Safety reports will be shared with the Dean of Students Office for appropriate follow-up.
- **Report the incident.** Staff should ask the student if he/she would like to **submit a complaint** via the Nondiscrimination and Anti-Harassment Complaint Policy or an **anonymous incident report**. The appropriate forms can be found here: <http://www.udayton.edu/finadmin/legalaffairs/nondiscrimination/index.php#5>. Students should be told that if they opt to file an anonymous incident report, it may limit what, if anything, the University can do to remedy the situation, but such reports still have great value in terms of keeping the University informed of possible discrimination. Staff can offer to assist a student in completing the complaint or online incident form or can connect the individual with another staff person who can provide assistance.

- **Mandatory Reporting Policy.** The University has adopted a policy that defines ALL staff members as mandatory reporters EXCEPT doctors, counselors, and ordained members of the clergy acting in that capacity. As a mandatory reporter, if you become aware of possible discrimination, including harassment, you must inform the University within 24 hours by contacting the Title IX/504 Coordinator and Equity Compliance Officer or one of the deputy coordinators. Reporting is required regardless of whether the discrimination involves students, faculty, staff, or visitors to the University. You must provide your name when making a report as a mandatory reporter.
 - You may report in person, by email, by phone, or by using the Harassment and Discrimination Incident Report Form (<http://www.udayton.edu/finadmin/legalaffairs/nondiscrimination/index.php#5>). The Dean of Students is a deputy coordinator, so you may satisfy this requirement by reporting the incident to the Dean of Students Office (937-229-3682; Gosiger Hall). When you report, you may be able to initially withhold personally identifiable information (the name of the victim, the name of the accused individual, and other identifying details about witnesses, location, etc.), in cases where the alleged victim is hesitant to have a formal report made. Subsequently, campus officials may need additional information from you. Your job is to cooperate fully with campus officials, providing any information/details requested.
 - Staff do not need to determine whether an incident merits reporting. When an incident is reported, the recipients of the report will assess the situation and determine the necessary follow-up.
- **Consult with your supervisor.** Additional support and/or programmatic follow-up will be coordinated by Student Development staff, as appropriate.

Understanding the Different Forms

The University has three different forms available to make it easy to tell the University about possible discrimination and harassment based on membership in a protected class (e.g., *gender, race, etc.*). Which form best fits the needs of the person seeking to tell the University depends on the circumstances.

- The **University of Dayton Nondiscrimination and Anti-Harassment Complaint Form** is the form used when **someone wants to bring a complaint on his/her own behalf** (i.e., when someone believes he or she has been the victim of discrimination) **and is willing to provide his/her name**. It does not allow for anonymous reporting. Filing this form is a request for action.
- The **University of Dayton Nondiscrimination and Anti-Harassment Incident Report Form** is the form used when **someone wants to file a report on behalf of someone else and is willing to provide his/her name**. It does not allow for anonymous reporting. As discussed on page 5, staff members are mandatory reporters. **Staff should use this form to satisfy their mandatory reporting obligation**. This form may also be used by others, including student witnesses, who are willing to provide their names.
- The **University of Dayton Bias-Related Incident Form** is the form used when **someone wants to file a report on his or her own behalf or on behalf of someone else and is not willing to provide his/her name**. In other words, this is the form used by someone who wishes to make an anonymous report. Since mandatory reporters must provide their name, filing an anonymous report does not satisfy their mandatory reporting requirement.

All three forms ask the person completing the form to provide the following basic information:

- Information about the incident (e.g., date, time, location, description of the incident)
- The type of discrimination involved (e.g., gender, race, etc.)
- Victim Information (may or may not require name)
- Alleged perpetrator information (may or may not require name)

The Bias Related Incident Form also asks if the form is being submitted for information purposes or if action is expected.

Once you have submitted a Nondiscrimination and Anti-Harassment Incident Report form, check with your supervisor regarding next steps because internal reporting structures may vary.

Offering Safety, Security, & Support

Offer safety, security, and support resources. Ask the student if he/she would like to meet with another staff member (e.g., Public Safety, Counseling Center, Dean of Students Office, Office of Multicultural Affairs, Center for International Programs, etc.) to discuss the incident.

- Ask the student how they feel about their level of safety and if any assistance (e.g., temporary housing, contacting professors, Counseling Center) is needed.
- If the alleged perpetrator is known, advise the student to contact Public Safety or a staff member regarding any concerns and to avoid engaging with the individual.
- Encourage the student to use their support system on and off campus.
- Consult your supervisor regarding any immediate needs to the individual or community.
- Appropriately document the situation based on departmental expectations.

After a Form is Submitted

Information submitted via the electronic complaint and report forms is sent to the Title IX/ Section 504 Coordinator and Equity Compliance Officer, who will determine what, if any, action by the University is necessary. You will ordinarily receive a follow up message from the Equity Compliance Officer within three business days.

Any next steps are dependent on the nature of the case and the status of the alleged perpetrator (i.e., faculty, staff, student or visitor). The Equity Compliance Officer follows the Equity Complaint Process for Resolving Complaints of Harassment, Sexual Misconduct and Other Forms of Discrimination. He or she may determine: no action is necessary, no violation of the Nondiscrimination and Anti-Harassment Policy has taken place, but the case should be referred to another University official to investigate other possible policy violations; informal resolution is an option; and/or formal investigation and dispute resolution is required. The University strives to complete its process within 60 days of receipt of the complaint or report.

Bias Related Incident Process Overview

The Bias Related Incident Process comes into play when a bias-related incident is reported or is the subject of a nondiscrimination or harassment complaint, and the incident does not arise to the level of a violation of the Nondiscrimination and Anti-Harassment but nonetheless indicates bias that should be addressed by the University. In such an instance, the case will be transferred by the Equity Compliance Officer to the Bias Related Incident Process team. That team consists of designated persons in the following offices: vice president of student development, vice president of human resources, provost, campus police, and the coordinator of the process.

The office of the vice president or the office of the provost with authority for the alleged victim and offender will normally be responsible for investigating the case in a thorough and confidential manner. For example, cases involving student respondents will normally be handled by the office of the vice president of student development. Cases involving staff members as respondents will generally be addressed by the office of the vice president of human resources and cases involving faculty as respondents will normally be addressed by the office of the provost. The appropriate office will also extend support and resources to the complainant.

For any incidents involving student respondents, the Dean of Students Office will be involved. The Dean of Students Office will communicate with other departments and areas, as appropriate, and follow-up with the student. Student Development staff in each area will work with the Dean of Students Office and their supervisor to determine appropriate follow-up.

Once the case has been investigated and a decision is reached, the vice president or designate will inform the complainant, the alleged offender, and the report coordinator of the outcome of the case. Normally, the review of a reported bias related incident should be completed in two to eight weeks depending on the complexity of the case.

Points to Share

- Share with the student that discussions regarding the incident and any follow-up will be handled with care and privacy. Information will be shared with staff and others at the institution on a need to know basis, while remaining in compliance with FERPA requirements.
- Students may fear retribution or have other concerns regarding follow-up that may occur, so be sensitive to the students wishes and their desired response/next steps.
- Care should be taken when involving the student/complainant in the process. The final response to an incident will be determined by the appropriate University officials in order to avoid putting undue pressure on a student to craft the response.

Student Development Resources

This section contains resources available within specific departments in Student Development that may prove helpful in addressing bias-related incidents. In some cases, additional department-specific reporting expectations are provided.

Campus Recreation

Campus Recreation staff are also expected to submit an internal incident report. The incident report is submitted to Campus Recreation administrative staff for further investigation and pursuance of action deemed necessary.

Center for Student Involvement

A code of conduct for student organizations, including values-based Greek organizations, exists on a campus level, and in some cases an inter/national level. Incidents are documented, investigated, discussed, and a decision is rendered.

Community Standards and Civility

- The involvement of Community Standards & Civility (CSC) will depend on the incident. A bias-related incident report is not automatically sent to CSC. Some Bias-Related Incident Reports may be sent through the conduct system, by request of the Equity Compliance Officer or Dean of Students or because a violation becomes apparent as a result of a police report being submitted. Public Safety will share a police report with the Equity Compliance Officer and CSC whether or not a crime or policy violation has occurred.
- Incident reports submitted to CSC that identify a specific student/s or student organization/s will be reviewed for possible charges. CSC will submit any incident reports received from a student that contains a bias-related complaint to the Equity Compliance Officer for review.
- Possible policy violations involving a bias-related incident may include a violation of the abuse policy.
- Cases involving bias are usually connected to other specific violations that could influence the consequences and inform the sanction (e.g., attend a perspective meeting, an assigned reading, write an apology letter), if held responsible.
- If an incident becomes a case, individuals or communities may be able to submit an impact statement.
- Cases are kept confidential. Victims who participate as a witness could learn the results associated with an individual held responsible for incidents involving violence. CSC cannot discuss specifics regarding a case with other individuals; however, general possible scenarios about what may happen can be discussed.
- Support people could be assigned to either party involved in a hearing.

Counseling Center

All of the therapists at the Counseling Center can provide consultation and support regarding bias-related situations and are open to doing this in individual or group format (e.g., floor meetings, critical incident meetings, roommate conflicts, etc.). Staff can accompany students to the Counseling Center or encourage students to use the Counseling Center services.

Community Wellness Services

This office provides wellness programming and alcohol intervention and prevention services for students. If this service could be of use to you as it relates to responding to a bias-related incident or for any other reason, please feel free to contact us.

Health Center

The Health Center is available with both nurses and physicians to aide students who have been victims of a bias-related incident. Services include most general medical care, including follow-up to an emergency room visit, evaluation and follow-up of wounds or injuries, assistance with insomnia after an incident, etc.

Housing & Residence Life

For students living in University Housing, RAs/Fellows will contact the GRAD HRL on-call staff person to inform and receive direction. Residence Life staff should contact Public Safety to assist in responding to an incident. The on-call Dean of Student Advocate (DSA) can also provide assistance.

The HRL on-call staff member will ask the informant and/or RA/Fellows the general protocol questions. Be thorough when asking informant about the situation. Gather as much information as possible so that you can document accurately. Once you have gathered all of the necessary information, you should respond personally to the situation to support staff and manage student impact. Questions to consider when a bias-related incident is reported to an HRL staff member:

1. Do you need to contact Public Safety?
2. Do students/staff need to be referred to campus resources?
 - Counseling Center, OMA, CIP, Campus Ministry, Health Center, Women's Center
3. Does anyone need to be relocated?
4. Will a floor/community meeting be necessary?
5. What recommendations are there for area staff to follow up?
6. If graffiti or other property damage occurred, has it been photographed/documentated before being cleaned up?
7. Remind staff in the area to document the situation in their area duty log.
8. Inform the AC/CC/RD in the area. This can be done via email depending on the nature of the situation.

New Student Programs

Bias-related incidents should be reported to the Director of New Student Programs. The Director will follow the appropriate documentation, reporting and investigative protocol as outlined by the Division of Student Development and the University of Dayton.

Office of Multicultural Affairs

The Office of Multicultural Affairs (OMA) can assist in supporting students and staff after a bias-related incident has occurred. OMA can also be of assistance to staff members who are creating educational programs designed to improve the climate within a particular community.

Consult with your supervisor and/or the Dean of Students Office for assistance in responding to an incident that may occur.

Programmatic Response to a Bias-Related Incident

This section provides programmatic resources. Consult with your supervisor to determine any immediate next steps following the possible occurrence of a bias-related incident. For example, the following might be needed: response to incidents made using social media, programming, training, change in operations. Staff in other departments may be able to provide additional resources that may prove helpful when creating passive or active programming when responding to a bias-related incident that has occurred. Consult with the Dean of Students Office if additional support people, including possible facilitators, are needed.

Possible meeting options:

- **Facilitated Activity & Discussion:** Offer an active educational program that involves a facilitated activity and discussion.
- **Educational Program:** Offer an educational program that addresses issues related to the bias-related incident. The incident may not be addressed directly.
- Hold a town hall meeting and/or group meeting/forum.
- One-on-one discussions and/or mediated conversations between full-time staff and the individuals involved.
- **Passive Program:** Bulletin board, flyers, etc.

The following are meeting options offered by Housing & Residence Life (contact HRL for additional information), which involve consultation with the Dean of Students Office when a bias-related incident occurs. Situations involving sexual violence pose special difficulties and **must** involve consultation with the Equity Compliance Officer before undertaking any actions:

- **Community Standards Setting Meeting:** Introductory activity and discussion of Student Standards of Behavior, policies, and the Commitment to Community document.
- **Critical Incident Meeting:** Discussion of an incident or event that individuals do not feel is acceptable. Call attention to what happened, discuss the action, and talk about how the community can address what occurred.
- **Accountability Meeting:** The setting in which a resident is called before the floor to account for his/her behavior that is alleged to be in violation of the Community Standards. The goal of the meeting is to determine if the floor considers the behavior to be a violation and, if so, to have the resident understand how his/her behavior is affecting floor residents and to have the resident agree to modify the offending behavior. The accountability meeting is not a punishment meeting in that the floor has no authority to impose punishment.

Proactive Measures

After an incident has occurred, take proactive measures to improve the climate and to prepare staff to address bias-related incidents. For example, provide diversity programming to members of the community as well as training and staff development opportunities.