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**Policy Number:** 105

**Date Issued:** Nov. 3, 2017

**Section:** General Administrative

**Revised Date:** July 19, 2022

**Title:** Human Dignity and Bias Incident Policy

**Review Date:** annually

**Effective Date:** November 3, 2017

**Attachments:** none

**Responsible University Officer:** Provost/Vice President for Learning

**Responsible Office:** Office of Diversity and Inclusion

**Applies to:** Faculty, Staff, Administrators, Students, Vendors, Volunteers, and Visitors

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### I. Policy

Capital University prepares individuals to be knowledgeable, independent, and critical thinkers, educated in leadership, and committed to service in an increasingly diverse society. All members of Capital University are expected to learn how to navigate a diverse society appropriately. As we come to learn and grow together, acts of intolerance may occur and result in harm to others, therefore the university has established this Human Dignity and Bias Incident Policy.

Members of the Capital University community must respect all persons regardless of age, ancestry, color, disability, gender identity or expression, genetic information, military status, national or ethnic origin, race, religion or religious affiliation, sex, sexual orientation, protected veteran status, or any other characteristic protected by law (hereafter "protected status"). Capital University deems it unacceptable for its students, faculty, and staff to engage in conduct (words or actions) that is intended to be, or that is reasonably foreseeable to be, threatening, abusive or intimidating to any member of the university community including students, faculty, staff, guests, and contracted services employees.

Conduct that violates this policy typically:

- A. Has the purpose or effect of unreasonably interfering with an individual or individuals' work or educational environment; or
- B. Is directed at an individual or individuals on the basis of their protected status; or
- C. Is abusive or severely humiliating.

Bias incidents and hate crimes are antithetical to the standards and values of the University, violate University policy and, in some instances, state and federal law, and will not be tolerated.

Also prohibited is retaliation against an individual who makes a bias report or who participates in the information-gathering or resolution of such report. Retaliation is a policy violation separate from the complaint of bias and will be considered independently from the merits of the underlying matter. Retaliation is a serious violation of this policy and will, upon a finding that retaliation has occurred, subject the individual to disciplinary action up to and including separation from the University.

Complaints of such conduct shall be heard and disciplinary action may be taken consistent with the provisions of the student handbook, the faculty handbook, or the administrative and staff handbook.

## II. Policy Details

### A. Academic Freedom and Freedom of Expression

Capital University is a private, non-profit, academic institution. As such, its main functions of teaching, research, practice, and learning are protected by academic freedom.

Capital recognizes that excellent education experiences include and must allow for divergent viewpoints and perspectives, some of which may challenge individual beliefs, values, or cultural norms. As a university community, we value and protect academic freedom and the open exchange of ideas. This policy is not intended to undermine or weaken these precepts; rather it is meant to address those incidents that fall beyond professional and academic discourse.

The university faculty adhere to the 1940 Statement of Principles on Academic Freedom and Tenure formulated by the Association of American Colleges and the American Association of University Professors, which states that teachers are entitled to full freedom in their research, and to freedom in the classroom when discussing their subject but should be cautious of controversial or persistently intruding material which has no relation to the teaching subject. Therefore, actions and words used in the context of the academic curriculum and teaching environment that serve legitimate and reasonable educational purposes will not be evaluated as violations of this policy.

Capital University values freedom of expression within its community as an essential component of open dialogue, the exchange of ideas, and critical thinking, all of which support student learning. However, as a private institution, the constitutional legal standards of the First Amendment do not directly apply.

Nothing in this policy is intended to restrict academic freedom, protected speech, or lawful protest. Yet with freedom comes responsibility for the consequences of our actions, as we live together in a community with standards of conduct and a society with rules of law.

### B. Definitions

- 1. Bias Incident:** Completed, attempted, or threatened abusive or hostile acts against persons, property, or an institution, where such acts manifest evidence that the target was intentionally selected on the basis of the target's actual or perceived protected status. Includes any hate crimes.
- 2. Bias Harassment:** A Bias Incident that has the purpose or effect of unreasonably interfering with a person's employment or education, or creating a hostile employment or educational environment, and has no legitimate relationship to the subject matter of a course or

academic research. In evaluating whether such an environment has been created, the University will consider the alleged conduct from both a subjective and objective perspective. Specifically, it will evaluate the alleged conduct from the perspective of a reasonable person in the target's position, considering all the circumstances.

3. **Hate Crime:** Criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, arson, larceny-theft, simple assault, intimidation, or destruction/damage/vandalism of property, where such crime manifests evidence that the target was intentionally selected because of the perpetrator's bias related to the target's actual or perceived protected status.
4. **Protected Status:** Protected status is defined by federal law/executive order, state law, local law, and Capital University policy. It includes age, ancestry, color, disability, gender identity and expression, genetic information, military status, national and ethnic origin, race, religion, sex, sexual orientation, protected veteran status, and any other characteristic protected by law.
5. **Responsible Employee:** For the purpose of this policy, a "responsible employee" is a university employee who is obligated to report incidents of alleged bias. It is the policy of this University that all employees, who are not confidential supports, are responsible employees. Even if an employee has a professional role outside the institution in which they must maintain confidentiality (e.g., as a counselor, therapist, or religious leader), when that employee is acting in their role as a Capital University employee, then they are also a responsible employee and must report incidents of alleged bias.
6. **Confidential Supports:**

Mental Health Counselors at the Center for Health and Wellness  
614-236-6114  
[chw@capital.edu](mailto:chw@capital.edu)

Drew Tucker  
Director of the Center for Faith and Learning  
614-236-7737  
[dtucker@capital.edu](mailto:dtucker@capital.edu)

Dikiea Elery  
Assistant Director of Religious and Spiritual Life  
614.236.6277  
[delery@capital.edu](mailto:delery@capital.edu)

A person who is a university confidential support and is acting in another role (i.e., as a course instructor) is not a confidential support in that additional role.

7. **Summary of Process:** Upon receipt of a report of prohibited conduct under this policy, the University will take prompt and effective action that includes notification and implementation of reasonably available supportive measures to individuals who make a report or seek assistance under this policy; conduct a review of the conduct reported; and,

as appropriate, initiate a resolution.

**III. Reporting** - Reports of violations of this policy may be made to:

All Campuses:

EthicsPoint (anonymous reporting) 888-238-1063 or  
[https://secure.ethicspoint.com/domain/en/report\\_custom.asp?clientid=17194](https://secure.ethicspoint.com/domain/en/report_custom.asp?clientid=17194)

Bias Incident Report  
(webpage)

Human Resources  
Debbie Gaitten, Director  
614-236-7130  
Yochum Hall – Room 22 (lower level)  
[dgaitten@capital.edu](mailto:dgaitten@capital.edu)

Title IX Coordinator  
Deanna Wagner  
614-236-6904  
[dwagner1453@capital.edu](mailto:dwagner1453@capital.edu)

Bias Education and Response Team:

Bexley Campus:

Office of Diversity, Equity, and Inclusion  
Ralph Cochran, Executive Director  
Student Union – 1<sup>st</sup> floor  
614-236-6181  
[rcochran@capital.edu](mailto:rcochran@capital.edu)

Mikayla Carter, Associate Director  
Student Union – 1<sup>st</sup> floor  
614-236-6181  
[mcarter99@capital.edu](mailto:mcarter99@capital.edu)

Law School/Columbus Campus:

Position currently vacant

If the incident involves a possible violation of the University's Sex or Gender Based Harassment, Discrimination and Sexual Misconduct Policy, you may report the incident directly to the University's Title IX Coordinator.

If the incident involves a Hate Crime or presents safety concerns, please contact the Capital Public Safety Department at: 614-236-6666 (located at 661 College Avenue on the Bexley Campus)

Conduct that rises to the level of Bias Harassment is covered by the University's Nondiscrimination, Harassment and Retaliation Policy and will be handled in accordance with that policy.

**IV. Procedures for Resolving Complaints (see flow chart in appendix)**

A. **Bias Determination: Incident is investigated by** Executive Director of Diversity, Equity, and Inclusion, Assistant Director of the Office of Diversity and Inclusion, Law School Assistant Dean

B. **Bias Not Determined:**

1. **Students:** Mediation/Conflict Resolution with Associate Director of the Office of Diversity

and Inclusion or Law School Assistant Dean of Diversity, Equity, and Inclusion is recommended. The intent of Mediation/Conflict resolution is to facilitate understanding and build an effective educational and work culture. If there is a violation of policy outside of the Human Dignity and Bias Incident Policy, then the matter is referred to Student Conduct.

2. **Employee:** Mediation/Conflict Resolution with Executive Director of Diversity, Equity, and Inclusion and Supervisor is recommended. The intent of Mediation/Conflict resolution is to facilitate understanding and build an effective work culture. If there is a violation of policy outside of the Human Dignity and Bias Incident Policy, then the matter is referred to Human Resources.

### C. Bias Determined:

1. **Restorative Justice:** Outreach from Executive Director of Diversity, Equity, and Inclusion, Assistant Director of the Office of Diversity and Inclusion, Law School Assistant Dean of Diversity, Equity, and Inclusion to provide education and healing to the Complainant or target and Respondent.
2. **Policy Review:** Review of policy to determine if the incident involves any violation of additional policies that come with university penalties, e.g., Title IX, NCAA, Student Conduct, etc.
3. **Sanctions:** Disciplinary action and sanctions may be taken consistent with the provisions of the student handbook, the faculty handbook, or the administrative and staff handbook. Sanctions are actions that the University will take against the Respondent that are proportionate to the violation(s). Sanctions may be issued individually, or a combination of sanctions may be imposed. The determination of sanctions is based upon a number of factors, including: the harm suffered by the target of the action; any ongoing risk to either the target or the University community posed by Respondent; the impact of the violation on the University community, its members, or its property; any previous bias incident violations by the Respondent; any pattern of bias incident behavior; and any mitigating or aggravating circumstances.
4. **Standard of Proof:** Capital University uses preponderance of the evidence (also known as “more likely than not”) as the standard of proof to determine whether a violation of this policy occurred. Legal terms, such as “guilt,” “innocence,” and “burdens of proof” are not applicable, as individuals are either found “responsible” or “not responsible” for a violation of this policy and it is neither party’s burden to prove their case. The University never assumes a responding party is in violation of the University policy, and the University’s objective is to provide a transparent, thorough, and fair process.
5. When the Respondent is a student, examples of sanctions include:
  - Warning – Written or Verbal
  - Mandatory Training or Education
  - Restricted Access
  - Restriction from extracurricular and/or co-curricular activities
  - Alcohol/Drug/Anger Assessment
  - Residence Hall Probation or Dismissal

- Disciplinary Probation
- Suspension
- Dismissal
- Withholding Diploma
- Revocation of Degree
- Organizational Sanctions
- Monetary Fines/Restitution

6. When the Respondent is an employee, examples of sanctions include:

- Warning – Written or Verbal
- Performance Improvement Plan
- Mandatory Training or Education
- Probation
- Demotion
- Suspension (paid or unpaid)
- Termination (If for a faculty member, the additional procedures set forth in the Faculty Handbook, Section 7.5 Dismissal for Cause, will be followed.)

7. **Referral for Legal Review:** An incident may be referred to University Counsel for review to determine if the incident involves legal violations. An outside investigator may be used for this process.

## V. Resources

1940 Statement of Principles on Academic Freedom and Tenure (See [www.aaup.org](http://www.aaup.org)) Related Federal, State, and Local Laws:

- Title VII of the 1964 Civil Rights Act (Title VII), as amended: prohibits employment discrimination on the basis of race, color, religion, national origin, or sex (including pregnancy);
- Title IX of the Education Amendments of 1972: prohibits discrimination on the basis of sex;
- Title VI of the 1964 Civil Rights Act (Title VI): provides monetary damages in cases of intentional employment discrimination;
- Title I and Title V of the Americans with Disabilities Act of 1990 (ADA), as Amended: prohibits employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments;
- Equal Pay Act of 1963 (EPA), as amended: protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination;
- Age Discrimination in Employment Act (ADEA) of 1967, as amended: protects individuals who are 40 years of age or older;
- Title II of the Genetic Information Nondiscrimination Act of 2008: protects applicants and employees from discrimination based on genetic information;
- Ohio Civil Rights Act, Ohio Revised Code Chapter 4112;
- Ohio Fair Employment Practices Act: Ohio Revised Code 4112.01, et seq.
- City of Bexley Code Chapter 637 – Discriminatory Practices; Civil Rights; Disclosure

- City of Columbus Code Chapter 2331 – Discriminatory Practices; Civil Rights; Disclosure

## **VI. Related Policies**

Diversity Statement

Non-Discrimination, Harassment and Retaliation Policy

Sex or Gender-Based Harassment, Discrimination and Sexual Misconduct Policy

## **VII. History**

Enacted: November 3, 2017, approved by the Board of Trustees

Reporting Information Updated: December 10, 2021

Bias Response Information Added: July 19, 2022

**VIII. Policy Appendix**

