Statement of Policy:

Western Michigan University, an affirmative action/equal opportunity institution, complies with applicable federal and state laws and University policies prohibiting discrimination and harassment against members of the University community. This policy addresses actions that constitute limitation or denial of educational and employment opportunities, University facility access, or participation in University activities on the basis of protected group status.

Summary of Contents/Major Changes:

Revised to add pregnancy and genetic information. Updated language regarding disability, protected veteran status.

Responsible Office and Responsible Enforcement Official:

The Responsible Office is Institutional Equity (IE). The Responsible Enforcement Official is the Executive Director of IE.

Classification:

X Board of Trustees Policy
    Board-delegated Policy

Categories:

Federal and State Civil Protections
1. Purpose of Policy

All Members of the Western Michigan University community have the right to be free from prohibited discrimination and harassment, as well as from retaliation for engaging in protected activities. All members of the community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Western Michigan University’s policies have been developed to reaffirm these principles, to provide resources for those individuals whose rights may have been violated, and to provide accountability for conduct that violates this Policy. This Policy prohibits behaviors that constitute discrimination or harassment prohibited by state and federal law.

2. Stakeholders Most Impacted by the Policy

The Policy applies to all members of the University community including current and prospective students, faculty, staff, administrators, Board members, consultants, job applicants, guests, visitors, contractors, vendors, and others engaged to do business with the University (collectively or individually “Covered Individuals”).

3. Key Definitions

3.1. Confidential: a category of information that, when disclosed to someone on a specific list of individuals (including medical providers, mental health providers, ordained clergy/pastoral counselors, and sexual assault crisis counselors) may only be shared if there is an imminent threat of harm to self or others.

3.2. Covered Behavior: prohibited behavior that falls under this Policy

3.3. Discrimination: denial of opportunity, or unfair treatment in employment, academic programs or activities, or access, on the basis of any Protected Class identified in this Policy.

3.4. Harassment: conduct (physical, verbal, graphic, written or electronic) that is unwelcome, based on any Protected Class characteristic outlined in this Policy, and directed at an individual or group in a Protected Class or Classes when: submission to or toleration of such conduct is explicitly or implicitly a term or condition of employment, evaluation, or participation in University programs or activities; submission to or rejection of such conduct is the basis for employment or academic decisions; or such conduct is severe, persistent, or pervasive and has the purpose or effect of creating an intimidating, hostile or offensive environment.

3.3. Private: a category of information that may be shared with a small circle of individuals who have a need to know.

3.4. Protected Class: a class of people who benefit from protection by statute, such as Title VII of the Civil Rights Act (race, sex, gender, gender identity, national origin, religion), Title IX of the higher education act (sex, sexual orientation, gender, gender identity), the Americans with Disabilities Act, or the Elliott-Larsen Civil Rights Act (religion, race,
3.5. **Retaliation**: acts, words, or attempts to take adverse action against any individual or group of individuals because of their good faith complaint or participation in an investigation and/or resolution of a complaint arising out of a violation of this Policy. Retaliation may be committed by any individual or group of individuals.

4. **Full Policy Details**

4.1. Western Michigan University strives to cultivate a community of respect, civility, value, and free from discrimination for all its members. The University will hold all members accountable for violations of the policy.

4.2. Western Michigan University prohibits discrimination or harassment that violates the law or that limits opportunities of admission, employment, or education based on the protected classes of race, color, religion, national origin, sex, pregnancy, sexual orientation, gender identity, age, disability, protected veteran status, genetic information, height, weight, or marital status.

4.3. Privacy and Confidentiality

4.3.1. WMU is committed to protecting the Privacy of all individuals involved in a reporting Covered Behavior. Every effort will be made to protect the Privacy interests of all individuals involved in a manner consistent with the need for a thorough review. Privacy and Confidentiality have distinct meanings under this Policy.

4.3.2. Private information may only be shared with those University employees who are directly involved in resolving reports of behavior under this Policy. While not bound by legally privileged Confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

4.3.3. Unless there is an imminent threat of harm to self or others, Confidential information that is shared with designated campus or community professionals may not be revealed to any other individual without express permission from the individual disclosing the information or about whom the information pertains. Designated campus and community professionals that may hold legally privileged conversations recognized by law include medical providers and mental health providers, and ordained clergy/pastoral counselors.

4.4. **Retaliation**

4.4.1. Retaliation against any individual or group of individuals for their participation in the enforcement of this Policy is prohibited by this Policy and by state and federal law.
4.4.2. Retaliation may take many forms, including threats, intimidation, pressuring, continued abuse, violence, other forms of harm to others.

4.4.3. Retaliation may also occur by moving someone to a less desirable workspace, altering work hours, removing or limiting privileges.

4.5. Implementation – Institutional Equity has published a process and procedure to ensure compliance with this Policy.

4.6. Communication –The University Community will be notified of this Policy via its posting on the University’s Policy webpage, Institutional Equity’s webpage and standard departmental communication. A notice of this Policy must be included in bulletins, announcements, publications, catalogs, application forms, or other recruitment materials that are made available to participants, students, applicants, or employees.

4.7. Exceptions - None

5. Accountability

Failure to follow this Policy and any associated procedures or guidelines may subject employees and students to disciplinary action, up to and including termination/separation dismissal from employment, school and/or educational activities or programs, consistent with applicable conduct procedures, Employee Handbook, Collective Bargaining Agreements, and Student Code of Conduct.

6. Related Procedures and Guidelines

Student Code

Collective Bargaining Agreements

Process and Procedures Implementing this Policy

Process and Procedures Implementing the Sexual- and Gender-Based Misconduct Policy

7. Additional Information

7.1. This Policy shall be deemed to automatically incorporate any relevant changes to federal or state statutory definitions, and related legal interpretations, of Protected Class.

7.2. Where conduct involves the potential violation of both this Policy and the University Sexual and Gender-Based Misconduct Policy, an investigation will be conducted that encompasses all relevant allegations.

7.3. Conduct covered by this Policy may also be a violation of provisions of the Student Code, other University policies, rules, and collective bargaining agreement requirements. The University, in its sole discretion, will determine under what authority it will evaluate
complaints. It will inform any individuals involved in the complaint of the legal or policy basis for its review or adjudication of a claim.

7.4. To file an internal complaint of discrimination or harassment you may contact Institutional Equity at (269) 387-6316 or use the Online Reporting Form.

7.5. All individuals are encouraged to promptly report conduct that may violate this Policy to the University. In addition, all individuals are encouraged to report conduct that may also violate criminal law to both the University and to local law enforcement or a civil rights agency. These processes are not mutually exclusive.

7.6. Any University student, employee or third party who seeks to make a criminal report may contact the Department of Public Safety or local law enforcement for assistance in filing the report and preserving physical evidence.

7.7. Inquiries or complaints concerning the University’s application of this Policy may be referred to the appropriate external enforcement agency:

Office for Civil Rights (Regional Office)

U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115-1812
Telephone: (216) 522-4970
FAX: (216) 522-2573; TDD: (800) 877-8339
Email: OCR.Cleveland@ed.gov

Michigan Department of Civil Rights
State Office Building, 4th Floor
350 Ottawa, N.W.
Grand Rapids, MI 49503
Phone: 616-356-0380
Fax: 616-356-0399
TTY: 616-356-0391

Equal Employment Opportunity Commission – Detroit Office
Patrick V. McNamara Building
477 Michigan Avenue
Room 865
Detroit, MI 48226
Phone: 1-800-669-4000
Fax: 313-226-4610
TTY: 1-800-669-6820

8. FAQs

What types of complaints does IE investigate?
IE handles complaints surrounding incidents, allegations and charges of protected class discrimination and harassment, and retaliation prohibited by federal and state civil rights laws and regulations involving WMU students and employees, and other members of the University community.

**How do I file a complaint?**
To report an incident of prohibited class bias, discrimination, harassment, sexual misconduct or retaliation, please use the Incident Reporting Form. For assistance in filing a criminal complaint and preserving physical evidence, contact WMU Department of Public Safety or your local law enforcement agency. You may also contact a civil rights office to file a complaint.

**When should I file a complaint with IE?**
You should file a complaint when you believe you have experienced any form of protected class discrimination, harassment, bias or retaliation. Filing a complaint is the best way to access support and resolution options.

**What happens when I file a complaint?**
You may view our flowchart detailing what happens after a complaint is filed with IE.

**Do I have to participate in the investigation process?**
No. However, the University may proceed without the benefit of your input. You will be notified if the University must proceed with an investigation.

**Is my involvement or what I say private?**
Yes. The University is committed to protecting the privacy of all individuals involved in a report of protected class harassment or discrimination. Throughout the process, every effort will be made to protect the privacy interests of all individuals in a manner consistent with the need for a thorough review of the reported incident.

**What are options for a resolution other than an IE investigation?**
IE can facilitate an informal or voluntary resolution; an agreement designed to eliminate a hostile environment by taking alternative actions that do not involve disciplinary action against a Respondent. This may include, protective measures, accommodations, targeted or broad-based educational programming or training, supported direct confrontation of the Respondent and/or indirect action.

**Are bias incidents considered discrimination?**
Bias incidents refer to conduct, speech, images or expression that demonstrate conscious or unconscious bias which targets individuals or groups based on, but not limited to, their actual or perceived race, ethnicity, national origin, sex, gender identity or expression, sexual orientation, disability, age, religion, socioeconomic status or other social identities. A bias incident may be discrimination depending on the facts surrounding the incident. You may report incidents of bias on the basis of protected group identities to Institutional Equity. Staff will assess whether the incident constitutes harassment or discrimination under the Policy and connect you with resources, as appropriate.
Where can I find support for managing conflicts in my work area?
Campus Employee Dispute Resolution Services (CEDRS) provides voluntary mediation services to employee disputes and disagreements. The CEDRS Coordinator will provide a confidential consultation about your situation and will help you choose which CEDRS service or other available resolution options may be of most assistance to you.

Related Policies:
Anti-Bullying Policy
Sexual and Gender-Based Misconduct Policy
Web Accessibility Policy
AA/EEO
Duty to Report Criminal Acts

References:
Federal Statutes
Title VII of the Civil Rights Act of 1964
Title VI of the Civil Rights Act of 1964
Title IX of the Education Amendments Act of 1972
Americans with Disabilities Act, Amendments Act of 2008
Section 504 of the Rehabilitation Act of 1973
Lilly Ledbetter Fair Pay Act of 2009
Executive Order 11246
Age Discrimination in Employment Act of 1967
Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (the Clery Act)
Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA)

State Statutes
Elliott-Larsen Civil Rights Act of 1976

History:
a. Effective date of current version: April 2006
b. Date first adopted:
c. Revision history:
d. Proposed date of next review:

Certified by: At the Direction of:
Responsible Enforcement Official The WMU Board of Trustees

/s/ __________________________ /s/ __________________________
Evelyn. B. Winfield-Thomas Kahler Schuemann
Executive Director
Institutional Equity
[Date] [Date]