

REVISION TO FACULTY HANDBOOK
(Replacing current policy in Section F of Chapter 1 – Discrimination and Harassment)

Policy

Loyola University New Orleans strives to create and maintain a working and learning environment in which people are treated with dignity, decency and respect. The environment of the University is characterized by mutual trust and the absence of intimidation, oppression and exploitation. Faculty, staff, and students are able to work and learn in a safe, yet stimulating atmosphere. For these reasons, Loyola does not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this policy and through education of faculty, staff, and students, Loyola seeks to prevent, correct and, when necessary, sanction behavior that violates this policy.

All faculty, staff, and students, regardless of their position, are covered by and are expected to comply with this policy, and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee or student who violates this policy.

Any Loyola faculty member who is found to have engaged in conduct prohibited under this Policy is subject to disciplinary action according to the procedures in the *Faculty Handbook*, Chapter 9. Any Loyola staff member who is found to have engaged in conduct prohibited under this Policy is subject to disciplinary action according to procedures in the *Human Resources Policies, Procedures and Benefits Manual*. Any Loyola student who is found to have engaged in conduct prohibited under this policy is subject to disciplinary action according to the procedures in the *Student Handbook*.

PROHIBITED CONDUCT UNDER THIS POLICY

1. Discrimination:

- a) It is a violation of this policy to discriminate in the provision of employment or educational opportunities, to create discriminatory work or learning conditions, or to use discriminatory evaluative standards if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, sex, national origin, age, religion, disability status, military/veteran status, or sexual orientation.
- b) Discrimination of this kind is also prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act 1964; Title IX of the Educational Amendments of 1972; the Age Discrimination in Employment Act of 1975; the Americans With Disabilities Act of 1990; the Family and Medical Leave Act; the Equal Pay Act, and Louisiana discrimination statutes.
- c) Discrimination in violation of this policy will be subject to severe sanctions.

2. Harassment:

Harassment, including sexual harassment, is prohibited by federal and state laws. This policy prohibits harassment, and Loyola will take appropriate action to swiftly address any unlawful harassment. Harassment is defined as verbal or physical conduct that has as its effect to threaten, intimidate or coerce. Also included are verbal taunting (including racial and ethnic slurs) which, in the employee's or the student's opinion, impairs his or her ability to perform his or her job or studies.

Examples of inappropriate conduct are:

- (1) Verbal: Insulting comments, epithets, slurs or negative stereotyping, regarding a person's nationality, origin, race, color, religion, age, gender, sexual orientation, disability or other protected status.
- (2) Non-verbal: Distribution or display of any written or graphic material that ridicules, denigrates, insults, belittles, or shows hostility toward an individual or group because of national origin, race color, religion, age, gender, sexual orientation, disability, or other protected status.

3. Sexual Harassment:

Sexual harassment is prohibited under this policy. Sexual harassment is a form of discrimination and is unlawful under Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972. According to these statutes, sexual harassment is defined as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct is used as the basis for employment or educational decisions or such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working or learning environment."

Unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature constitute sexual harassment, when:

- a) such advances or requests are made under circumstances implying that one's response might affect educational or personnel decisions that are subject to the influence of the person making the proposal, or
- b) acceptance or rejection of such advances or requests is used as a basis for an employment or educational decision, or
- c) such speech or conduct is directed against another and is either abusive or severely humiliating, or persists despite the objection of the person targeted by the speech or conduct; or
- d) such speech or conduct is reasonably regarded as offensive and substantially impairs the academic or work opportunity of students, colleagues, or co-workers. If it takes place

in the teaching context, it must also be persistent, pervasive, and not germane to the subject matter. The academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the appropriate content and presentation of academic material.

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is unwelcome, that is personally offensive, and therefore interferes with work or learning effectiveness.

Sexual harassment may take different forms. Examples of conduct that may constitute sexual harassment are:

(1) Verbal: Sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks, threats, requests for any type of sexual favor (this includes repeated, unwelcome requests for dates), and verbal abuse or "kidding" which is oriented towards a prohibitive form of harassment, including that which is sex oriented and considered unwelcome.

(2) Non-verbal: The distribution, display, or discussion of any written or graphic material, including images, posters, and cartoons that are sexually suggestive, or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters and notes, facsimiles, e-mail, that is sexual in nature.

(3) Physical: Unwelcome, unwanted physical contact, including but not limited to, touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling; forced sexual intercourse or assault.

There are three types of sexual harassment:

1. "*Quid pro quo*" harassment, where submission to harassment is used as the basis for employment or educational decisions.

Quid pro quo harassment occurs when employee benefits such as raises, promotions, working hours, etc., or student benefits such as grades, assignments, recommendations, etc. are directly linked to compliance with sexual advances. Therefore, only someone with the authority to grant such benefits can engage in *quid pro quo* harassment. Example: A supervisor promising or implying a raise to an employee if she goes on a date with him; a professor telling or suggesting to a student he will not get a recommendation for graduate school if he does not go out with her.

2. "Hostile work or learning environment," where the harassment creates an offensive and unpleasant working or learning environment.

Hostile environment can be created by anyone in the work or learning environment, whether it is supervisors, fellow employees, professors, students, or outside contractors. Hostile environment harassment consists of language of a sexual nature, unwelcome sexual materials, or unwelcome

physical contact as a regular part of the work or educational environment. Cartoons or posters of a sexual nature, vulgar or lewd comments or jokes, or unwanted touching or fondling all fall into this category.

Again, it is recognized that the academic setting is distinct from the workplace in that latitude is required for professional judgment in determining the appropriate content and presentation of academic material.

3. “Gender-based hostility”, where an individual or individuals are harassed because of their gender.

Procedure

What those who think they are discriminated against or harassed should do:

- a) Loyola wants to stop inappropriate behavior, especially before it becomes a violation of law. The University cannot solve a problem of which it is not aware. Report inappropriate behavior.
- b) Review the complaint procedure set forth in this document.
 - Contact the **Director of Human Resources** to file a complaint against a *staff member*. If the Director of Human Resources is unavailable, or if you are uncomfortable reporting to the Director of Human Resources, you may report to the alternate -- **Manager of Employment and Employee Relations**.
 - Contact the **Provost** to file a complaint against a *faculty member*. If the Provost is unavailable, or if you are uncomfortable reporting to the Provost, you may report to the alternate – **Dean of the College of the faculty member**. For tracking purposes notification of receipt of a complaint will be forwarded to the Director of Human Resources and Director of Risk Management.
 - Contact the **Associate Vice President for Student Affairs** to initiate a complaint against a student. If the Associate Vice President for Student Affairs is unavailable, or if you feel uncomfortable reporting to the Associate Vice President of Student Affairs, you may report to the alternate -- **Associate Director for Residential Development and Judicial Affairs**.
 - Contact the **Director of Risk Management** to initiate a complaint against a non-Loyola community member (sub-contractor, vendor, etc.).

The complainant (the faculty, staff, or student making the complaint) may file a verbal complaint in person with the appropriate party referenced above in part b, Procedures; may use the [Harassment/Discrimination Reporting Form](#); or other written forms of communication. Note: It is not a prerequisite for filing a complaint with the University that the complainant first confront the alleged violator.

The Counseling and Career Services Office and University Ministry provide confidential counseling services to Loyola faculty, staff, and students. Persons wishing to discuss

confidentially an incident of possible discrimination, harassment or retaliation, or persons seeking information and advice without committing to future action, are encouraged to contact the Office of Counseling and Career Services or University Ministry. The role of the counselor or minister in such cases will be limited to personal counseling and treatment of the person.

Faculty, staff, or students seeking guidance from Loyola clergy or Loyola licensed counselors may invoke a privilege of confidentiality. Faculty, staff, or students who seek confidential advice from counselors or clergy will not be deemed to have filed a formal complaint with Loyola.

What to do if you observe discrimination or harassment:

If you become aware of discrimination or harassment, either from personal observation or as a result of an employee or student coming forward, you should immediately report it to the **Provost or Dean** (faculty alleged violator); the **Director of Human Resources or alternate** (staff alleged violator); the **Associate Vice President for Student Affairs or alternate** (student alleged violator); **Director of Risk Management** (non-Loyola community member).

Complaints in which the alleged violator is a student:

Upon receiving a complaint of discrimination or harassment in which the alleged violator is a **student**, the Associate Vice President for Student Affairs will appoint an impartial investigator who will interview the complainant, the accused, and any witnesses, to determine whether there is a reasonable basis for believing that the alleged violation occurred.

The Investigator will conduct an investigation in a reasonable period of time (in no case exceeding 90 calendar days) and upon conclusion forward the written report to the AVP of Student Affairs who will follow the disciplinary process as outlined in Chapter 10 of the Student Handbook. The appropriate remedial action will depend on the following factors: (i) the severity, frequency and pervasiveness of the conduct; (ii) prior complaints made against the respondent; (iii) the quality of the evidence (first hand knowledge, credible corroboration etc.).

The Associate Vice President of Student Affairs will also notify the Director of Risk Management that an alleged violation of the Discrimination and Harassment policy has occurred.

The university disciplinary process for students, as outlined in Chapter 10, Student Handbook, applies to students while they are on the campus of Loyola University, or when they attend functions and events off-campus which are Loyola-related or when their off-campus behavior is a violation of criminal law or constitutes a hazard to the health, safety, or well-being of themselves or members of the University community. The right to appeal is contained in university disciplinary process for students, as outlined in Chapter 10, Student Handbook

Disciplinary proceedings can be carried out prior to, and/or simultaneously with civil or criminal proceedings off-campus. University disciplinary action will not be subject to challenge on the grounds that civil or criminal charges involving the same incident have been dismissed or reduced. Written complaints of incidents involving student-on-student, student-on-faculty, or student-on-staff must be filed no later than the last day of the semester following the semester in which the alleged incident occurred (not including the summer).

Complaints in which the alleged violator is a staff member:

Upon receiving a complaint against a **staff member** or being advised that a violation of this policy may be occurring, the Director of Human Resources will review the complaint with the employee's supervisor and the appropriate Vice President. The Director of Human Resources or alternate will promptly initiate an investigation. The Human Resources Director will also notify the Director of Risk Management that an alleged violation of the Discrimination and Harassment policy has occurred.

- 1) During the investigation, the Director of Human Resources or his/her designate will interview the complainant, the respondent, and any witnesses, to determine whether there is a reasonable basis for believing that the alleged that the alleged violation occurred.
- 2) Within a reasonable time of the complaint being filed (in no case more than 90 calendar days), the investigator will conclude the investigation and submit a report of his or her findings to the appropriate Vice President. (If the designate is the investigator, she/he will report first to the Director of Human Resources.)
- 3) If the investigator concludes that there is a reasonable basis to believe that harassment or discrimination in violation of the University's policy has occurred, the Director of Human Resources will recommend to the Vice President of the respondent's Division and to the President that appropriate disciplinary action be taken by the University in accordance with the disciplinary procedure for staff outlined in the HR Policies, Procedures and Benefits Manual. The appropriate remedial action will depend on the following factors: (i) the severity, frequency and pervasiveness of the conduct; (ii) prior complaints made against the respondent; (iii) the quality of the evidence (first hand knowledge, credible corroboration etc.).
- 4) If the investigation is inconclusive or it is determined that there has been no harassment or discrimination in violation of this policy, but some potentially problematic conduct is revealed, other corrective action may be taken.
- 5) In the case the investigation is inconclusive or it is determined that there has been no harassment or discrimination in violation of this policy, no materials relating to the allegation of harassment or discrimination, the investigation, or finding will be placed in the staff member's personnel file.
- 6) The right to appeal can be found in the Dispute Reconciliation Policy and the Staff Grievance Policy, found in the Human Resources Policies, Procedures and Benefits Manual.

Complaints in which the alleged violator is a faculty member:

Upon receiving a complaint against a faculty member or being advised that a violation of this policy may be occurring, the Provost or Dean will review the complaint, and the faculty member will be immediately informed and provided documents in accordance with Chapter Eight of the Faculty Handbook. For tracking purposes notification of receipt of a complaint will be forwarded to the Director of Human Resources and the Director of Risk Management.

The Provost or Dean will promptly initiate an investigation.

- 1) During the investigation, the Provost or Dean, or his/her designated impartial investigator, will interview the complainant, the accused, and any witnesses, to determine whether there is a reasonable basis for believing that the alleged violation occurred.
- 2) Within a reasonable time of the complaint being filed (in no case more than 90 calendar days), the investigator will complete a written report, which will be provided to the Dean, the Provost and the accused. If the investigator concludes that there is a reasonable basis to believe that harassment or discrimination in violation of the University's policy has occurred, the Provost will recommend to the President that appropriate disciplinary action be taken by the University in accordance with the disciplinary procedure in Chapter 9 of the Faculty Handbook. The right to appeal is also contained in Chapter 9 of the Faculty Handbook. The appropriate remedial action will depend on the following factors: (i) the severity, frequency and pervasiveness of the conduct; (ii) prior complaints made against the respondent; (iii) the quality of the evidence (first hand knowledge, credible corroboration etc.).
- 3) If the investigation is inconclusive or it is determined that there has been no harassment or discrimination in violation of this policy, the faculty member and the complainant will be notified and the case will be closed.
- 4) In the investigation is inconclusive or it is determined that there has been no harassment or discrimination in violation of this policy, no materials relating to the allegation of harassment or discrimination, the investigation, or finding will be placed in the faculty member's personnel file.

Special reporting situations: Allegations of discrimination or harassment by the Human Resources Director should be reported to the Vice President for Business and Finance. Allegations of discrimination or harassment by the Associate Vice President of Student Affairs should be reported to the Vice President of Students Affairs. Allegations of discrimination or harassment by a Vice President should be reported to the President. Allegations of discrimination or harassment by the President should be reported to the Chair of the Board of Trustees.

Any person using the complaint resolution procedure will be treated courteously, the problem handled swiftly and as confidentially as feasible in light of the need to take appropriate corrective action, and the registering of a complaint will in no way be used against the employee or student, nor will it have an adverse impact on the individual's employment or educational status. While reporting such incidents can be a difficult personal experience, allowing discrimination or harassment activities to continue will most certainly lead to less desirable

outcomes. For that reason, faculty, staff, and students are required to utilize this procedure. However, filing groundless and malicious complaints is an abuse of this policy and is prohibited.

RESPONSIBILITIES

All Loyola faculty, staff, and students must share the responsibility of understanding and preventing discrimination and harassment. Ultimately, no satisfactory investigation or resolution of complaints can occur without the initiative and continued cooperation of the complainant.

Duty to Report

Administrators, Managers, Supervisors and Faculty have the special legal responsibility to act promptly to eliminate any discrimination or harassment that exists in their areas of responsibilities, including not only employment but educational programs and student life. If an Administrator, Supervisor, Manager, or Faculty knows, believes, or suspects that discrimination, harassment or retaliation is occurring, or receives information that discrimination, harassment or retaliation might be occurring, he or she must take immediate action to address the problem. Such action should include, but is not limited to, speaking directly with the injured person, developing a specific account of the actions, omissions or occurrences that are alleged to be discriminatory or harassing, and consultation with the Human Resources Director, the Dean or Provost, or the Associate Vice President of Student Affairs or their alternates.

DISCRIMINATION/HARASSMENT AWARENESS EDUCATION

The President will ensure that appropriate Discrimination/Harassment Awareness Education is provided to all Loyola faculty, staff, and students. The **Director of Human Resources, Associate Vice President of Student Affairs and Director of Risk Management** will provide information and education to the faculty, staff, and students on recognizing, understanding, and combating unlawful discrimination and harassment.

CONFIDENTIALITY

a) Loyola wishes to create a safe environment in which individuals are not afraid to discuss concerns and complaints, or to seek general information about discrimination, harassment, and retaliation. The University recognizes that individuals may be concerned about the confidentiality of information they share, and will strive to preserve confidentiality to the fullest extent possible.

b) The Counseling and Career Services Office and University Ministry provide confidential counseling services to Loyola faculty, staff, and students. Persons wishing to discuss confidentially an incident of possible discrimination, harassment or retaliation, or persons seeking information and advice without committing to future action, are encouraged to contact the Office of Counseling and Career Services or University

Ministry. The role of the counselor or minister in such cases will be limited to personal counseling and treatment of the person.

c) Faculty, staff, or students seeking guidance from Loyola clergy or Loyola licensed counselors may invoke a privilege of confidentiality. Faculty, staff, or students who seek confidential advice from counselors or clergy will not be deemed to have filed a formal complaint with Loyola.

d) Loyola will take prompt responsive action once informed that discrimination, harassment or retaliation has occurred or may be occurring by conducting an investigation.

f) Confidentiality will be maintained to the extent practicable. During the investigative process, any information gathered, or any notes or documents written by or received by the person(s) conducting the investigation will be shared only with those who have a legitimate need to know and as required by law.

RETALIATION

1) No hardship, no loss or benefit, and no penalty may be imposed on an employee or student as punishment for:

a) Filing or responding to a bona fide complaint of discrimination or harassment;

b) Appearing as a witness in the investigation of a complaint; or

c) Serving as, or assisting, an investigator or otherwise acting to enforce the policy

2) Retaliation or attempted retaliation is a violation of this Policy and anyone who does so will be subject to severe sanctions.