

Loyola University Maryland
Harassment and Discrimination Policy and Procedures
Approved by the Loyola Conference on 12/9/03

Purpose

Loyola University does not discriminate on the basis of race, sex, color, national or ethnic origin, age, religion, disability, marital status, or sexual orientation in the administration of any of its educational programs and activities or with respect to admission or employment. Prohibited discrimination includes harassment on the basis of a protected classification and harassment based on participation in “protected activity” (i.e., opposition to prohibited discrimination or participation in the statutory complaint procedure). Discrimination, including harassment, is inconsistent with Loyola’s commitments to excellence and to respect for all individuals. Loyola is also committed to the free and vigorous discussion of ideas and issues, which the University believes will be protected by this policy.

Scope

This Policy prohibits discrimination, including harassment, against students or employees of Loyola University by anyone on University property or at University-sponsored activities. This Policy will apply to situations in which both the person alleging discrimination or harassment (the “complainant”) and the person accused of discrimination or harassment (the “respondent”) are employees or students of Loyola University.¹

Allegations of discrimination or harassment made against a student in his/her capacity as a student will be resolved through the student judicial process, rather than under this Policy. Allegations against student employees in their capacity as employees will be resolved through this Policy and will be reported to the Assistant Director of Student Life.

Allegations involving individuals who are not current employees or students of Loyola (e.g., applicants for admission or employment, alumni, independent contractors, vendors, recruiters) will be addressed on a case-by-case basis using an appropriate procedure as determined by the Human Resources Department.

Harassment other than on the basis of a protected classification also is prohibited by University policy and may be the subject of a complaint using either the Grievance Procedure for Complaints Made Against Faculty or the Grievance Procedure for Complaints Made Against Staff, Administrators, and Student Employees, as applicable.

Policy

- I. Loyola is committed to protecting the academic freedom and freedom of expression of all members of the University community. This policy against discrimination and

¹ Loyola students and employees who are studying or teaching off-campus (e.g., semester abroad) or are on a leave of absence (e.g., medical leave, sabbatical) remain covered by this policy.

harassment shall be applied in a manner that protects the academic freedom and freedom of expression of all parties to a complaint. Academic freedom and freedom of expression include but are not limited to the expression of ideas, however controversial, in the classroom, residence hall, and, in keeping with different responsibilities, in workplaces elsewhere in the University community.

II. Definition of Harassment

- A. Harassment means unwelcome verbal, written or physical conduct based on a protected classification (sex, race, age, etc.) that has the purpose or effect of unreasonably interfering with an individual's work or education (including living conditions) or that creates an intimidating, hostile or offensive environment.
- B. Sexual harassment is a form of harassment with specific distinguishing characteristics. It consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:
 - 1. submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's employment or education; or
 - 2. submission to or rejection of such conduct is used as a basis for employment or educational decisions affecting an individual; or
 - 3. such conduct has the purpose or effect of unreasonably interfering with an individual's work or education (including living conditions), or creating an intimidating, hostile or offensive environment.
- C. The conduct alleged to constitute harassment under this policy should be evaluated from the perspective of a reasonable person similarly situated to the complainant and considering all the circumstances.

III. In considering a complaint under Loyola's Harassment and Discrimination Policy, the following understandings shall apply:

- A. Harassment must be distinguished from behavior that, even though unpleasant or disconcerting, is appropriate to the carrying out of certain instructional, advisory, or supervisory responsibilities.
- B. Filing a complaint under this policy does not preclude an employee from filing a charge of employment discrimination with the EEOC, or Maryland Commission on Human Relations, within the time frames established by those agencies. Filing a complaint under this policy does not preclude a student from filing a written complaint with the Department of Education's Office of Civil Rights within 180 calendar days of the date of the alleged discrimination.

IV. The following behaviors are also prohibited by the Harassment and Discrimination Policy:

A. Retaliation

1. It is a violation of Loyola's Harassment and Discrimination Policy to retaliate against any person in connection with making or participating in an investigation of an allegation of harassment or discrimination. A complaint of retaliation may be pursued using the steps set forth in this Policy. When necessary, the University will monitor student grading or faculty/staff reappointment, tenure, promotion, merit review, or other decisions in order to ensure that prohibited retaliation does not occur.
2. The University reserves the right to take immediate measures to prevent incidents of discrimination or harassment pending the outcome of any proceedings under this Policy.

B. Knowingly Filing False Complaints

Knowingly filing a false complaint of harassment or discrimination or retaliation is a violation of this Policy. A complaint under this provision shall not constitute prohibited retaliation.

C. Intentional Breaches of Confidentiality

All participants in this process, including the complainant and respondent, witnesses, investigators, supervisors or their designees, and University officers, shall respect the confidentiality of the proceedings to protect the privacy and reputations of the individuals involved in the process. Participants are authorized to discuss the case only with those persons who have a legitimate "need to know." Any questions regarding confidentiality, including who has a "need to know" in a particular case, should be directed to Human Resources.

A complaint alleging an intentional breach of confidentiality may be pursued using the steps followed for a complaint of harassment or discrimination. Such a breach may also constitute an act of retaliation. A breach of confidentiality may void the outcome of any previously agreed-upon resolution to a complaint.

V. This Policy and the attached Procedures for Resolution of Claims of Harassment and Discrimination are only part of Loyola's effort to prevent discrimination and harassment in our community. In addition to spelling out steps for making and resolving complaints, the University is also committed to programs of education to

raise the level of understanding concerning the nature of discrimination and harassment and ways to prevent their occurrence.

NOTE: This Harassment and Discrimination Policy replaces previous statements on sexual harassment and discrimination in Staff and Administrator Personnel Policy Manuals, and the Faculty Handbook.

Procedures for Resolution of Claims of Harassment and Discrimination

VI. Introduction

Loyola's Harassment and Discrimination Policy reflects the commitment to maintain a community that is free from discrimination and harassment of any kind. Loyola has designed procedures for prompt internal resolution of harassment and discrimination complaints that arise within the University community. Loyola will undertake immediate and appropriate corrective action whenever it determines that harassment or discrimination has occurred in violation of the policy.

Responsibility for overseeing the resolution of claims of harassment or discrimination rests with the Human Resources Department. A senior staff member within the Department, in most cases the Director of Employee Relations and Professional Development, will be designated to respond to complaints of harassment.

Other University personnel are also available to provide consultation and assistance regarding harassment and discrimination complaints. Human Resources staff and the Director of Employee Relations and Professional Development are trained to assist either with informal resolutions or with filing of grievances or complaints. Supervisors of employees and deans who work with faculty and students across the campus can provide guidance about responding to situations that individuals believe to be harassing or discriminatory.

VII. Counseling and Informal Intervention

A member of the Loyola community who believes that he or she has been harassed or discriminated against in violation of this policy is encouraged to take action in any of the following ways. Individuals are encouraged to report harassment or discrimination as soon as possible. Although none of the actions described below is required before an individual may file a formal complaint, Loyola's Harassment and Discrimination Policy favors informal resolution of claims whenever such resolutions can be affected fairly. A complainant may end the informal stage at any time and may initiate a formal complaint.

A. Options for Informal Resolutions

1. Discuss the situation with senior staff in the Human Resources Department or the Director of Employee Relations and Professional Development or other designated individuals, who are available through the following offices:

Undergraduate Students:

Office of Student Development

Director of Athletics

Dean of First-Year Students and Academic Services

Dean of Admissions

Dean of the College of Arts and Sciences

Dean of the Sellinger School of Business and Management

Graduate and Professional Students:

Dean of the College of Arts and Sciences

Director of Graduate Admissions

Associate Dean of Executive and Business Programs

Dean of the Sellinger School of Business and Management

Faculty:

Human Resources Department

Office of the Vice President for Academic Affairs

Assistant Vice President for Academic Affairs and Diversity

Deans

Staff and Administrators:

Human Resources Department

2. Meet with the individual whose behavior is disturbing, discuss the situation, and make it clear that the behavior is unwanted. Such actions may be discussed with Human Resources in advance of the meeting.
3. Contact the supervisor or dean of the person whose behavior is disturbing and request assistance to stop the behavior.
4. Request assistance from Human Resources for an informal intervention.

B. Informal Interventions

Human Resources may assist an individual who does not wish to file a formal complaint, but who seeks informal intervention to end conduct that the person believes violates the Harassment and Discrimination Policy.

Human Resources, or another person designated by Human Resources, may discuss the alleged conduct with the respondent, remind him or her of

University policies against harassment and discrimination, and seek a commitment by the respondent to comply with these policies.

After an informal intervention has concluded, Human Resources will collect and maintain all documentation concerning the complaint. Such a record will be kept in order to document that the claim of harassment or discrimination was made informally and that a resolution was reached without a finding in the situation.

NOTE: Some forms of behavior that are disturbing to members of the Loyola community may not meet the definition of harassment or discrimination found in Loyola's Harassment and Discrimination Policy. Such behavior may, nonetheless, be prohibited by other policies, rules, or procedures. Questions about handling complaints under any of other policies and procedures may be directed to Deans and to Human Resources staff.

VIII. Initiating a Formal Complaint

A. Timeframe for Filing

All complaints of harassment or discrimination should be filed with Human Resources as soon after the offending conduct as possible, but in no event more than 180 calendar days after the most recent conduct alleged to constitute harassment or discrimination. Human Resources may grant a reasonable extension of any other time period established in these guidelines; however, the 180 calendar days time limit for filing a formal complaint shall not be extended.

The 180 calendar days statute of limitation on the filing of claims is intended to encourage complainants to come forward as soon as possible after the offending conduct and to protect respondents against complaints that are too old to be effectively investigated. There may, however, be sound reasons why a complainant does not come forward within 180 calendar days. Although such a complaint cannot be pursued under the formal complaint procedures, there may still be options for responding to such complaints through counseling or informal intervention. If sufficient evidence is available, an investigation can be undertaken by appropriate authorities to determine if the behavior constitutes misconduct sanctionable under other judicial processes.

B. Written Complaint and Response

A formal complaint must be submitted in writing to Human Resources and signed by the complainant. This written complaint shall include the names of the complainant and the respondent and the details of the conduct alleged to be harassment or discrimination. Within five calendar days of receiving the written complaint, Human Resources will provide the respondent with a copy

of the complaint. The respondent must submit to Human Resources a response to the charges within fourteen calendar days. Upon receipt of the respondent's answer to the complaint, the Human Resources shall forward a copy of the response to the complainant.

C. Settlement Negotiation

Within seven calendar days of receiving a copy of the response to the complaint, Human Resources shall schedule a meeting with each of the parties, together or separately, to attempt to negotiate a settlement of the complaint.

A settlement shall occur when the parties agree in writing to a resolution of the complaint. A resolution may include, but is not limited to, withdrawal of the complaint without the right to refile it; an agreement by the respondent to terminate or not repeat specific conduct; an apology; or participation in counseling. Human Resources shall review all settlements to ensure that the parties fully understand the terms. If there is any sanction agreed to as part of the resolution, the official responsible for implementing any such sanction must also agree to the settlement.

D. Finding, Determination, and Sanction

If a settlement is not reached within thirty calendar days of this initial meeting, Human Resources shall make a written determination that includes a finding of whether the conduct alleged in the complaint occurred, and whether such conduct violated Loyola's policy against harassment and discrimination.

If Human Resources determines that the respondent violated Loyola's policy against harassment and discrimination, Human Resources shall consult with the appropriate responsible official (as defined below) to determine the sanction to be imposed by the University. Taking into account the nature and severity of the violation and the respondent's employment record, sanctions may include: participation of the respondent in counseling; prohibition of the respondent from participating in grading, honors, recommendations, reappointment and promotion decisions, or other evaluations of the complainant; letter of reprimand and a copy of the complaint and its disposition placed in the respondent's personnel file; restrictions on the respondent's access to University resources, such as merit pay or other salary increases for a specific period; or suspension or dismissal from the University, all in accordance with established University policies and procedures.

Human Resources shall notify the complainant and the respondent by campus mail of the determination and, in the case of a determination that the policy was violated, of the sanction to be imposed.

E. Responsible Official

1. In cases in which the respondent is a member of the faculty, the responsible official shall be the Dean of the school or college to which the respondent belongs, or the Vice President for Academic Affairs.
2. In cases in which the respondent is a non-faculty administrator or staff member, the responsible official shall be the appropriate Vice President, or his or her designee. However, if the respondent is a non-faculty administrator or staff member in a division that reports directly to the President, the responsible official shall be designated by the President. If the Respondent is the President, the responsible official shall be the Chair of the Board of Trustees.
3. In cases in which the respondent is a student employee (graduate or undergraduate), the responsible official shall be the appropriate Vice President of the division or Dean of the college in which the student is employed.

IX. Appeals to the President

Within fourteen (14) days of receiving notice of the determination and the sanction, if any, the complainant or the respondent, or both, may file an appeal, in writing, with the President based on one or more of the following grounds:

1. The determination is not supported by the evidence.
2. Relevant evidence that was not available for consideration prior to the determination being made has been discovered.
3. The sanction is disproportionate to the offense.
4. Procedural error(s) occurred that materially affected the outcome of the investigation.

The President shall review the appeal based on the written record, without a hearing. The President may remand the case to Human Resources for further investigation and findings. Within thirty (30) days of receipt of the last-filed appeal, the President shall render a final decision, in writing, to the complainant and the respondent.

X. Monitoring

A. Annual Record

At the beginning of each academic year, Human Resources shall submit a written report to the President setting forth the number of informal and formal cases filed in the prior year; which of these cases, if any, reached mediated solutions.

- B. The report shall specify the number of cases in which Human Resources made findings of harassment or discrimination, the types of harassment or discrimination found, and the final disposition of the cases, including any disciplinary action taken. The cases shall be reported in a manner that protects the privacy of the parties. The President shall make the annual report available to all members of the University community.