

8.6 Harassment and Discrimination Policy and Procedures

Purpose

Loyola University Maryland does not discriminate on the basis of race, sex, color, national or ethnic origin, age, religion, disability, marital status, sexual orientation, gender identity, genetic information, military status, or any other legally protected classification 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 any "protected activity." Complaints of domestic violence, dating violence, and stalking (whether or not based on a protected classification) are also addressed under this policy.

Discrimination, including harassment, domestic violence, dating violence, and stalking is inconsistent with Loyola's commitment to excellence and respect for all individuals. Loyola is also committed to the free and vigorous discussion of ideas and issues, which is also protected by this policy.

Scope

This policy prohibits discrimination, including harassment, against students or employees of Loyola University Maryland by anyone on University property or at University-sponsored activities. This policy applies 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 Maryland.¹

Allegations against a student in his/her capacity as a student are resolved through the student conduct process, rather than under this policy. The Sexual Aggression Policy located in the Community Standards is articulated in violation 21 on page 35. Allegations against student employees in their capacity as employees are resolved through this policy by the director of student life and the director of human resources generalist services.

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

Harassment of others who are not members of a protected classification is also 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.

The designated official to ensure Loyola's compliance with Title IX of the Education Amendments of 1972, as amended, which prohibits sex discrimination including sexual harassment and sexual violence, is Kathleen M. Parnell, Assistant Vice President for Human Resources, 5000 York Road, Suite 200, Baltimore, MD 21212, Phone: 410-617-2354, [Email: kmparnell@loyola.edu](mailto:kmparnell@loyola.edu). The designated official to ensure Loyola's compliance with Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap/disability, is Kathleen M. Parnell, Assistant Vice President for Human Resources, 5000 York road, Suite 200, Baltimore, Maryland, 21212, Phone: 410-617-2354, [Email: kmparnell@loyola.edu](mailto:kmparnell@loyola.edu). Complaints may also be filed with the U.S. Department of Education, Office of Civil Rights (www.ed.gov).

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.

Policy

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

Definition of Harassment

Harassment means unwelcome verbal, written or physical conduct based on a protected classification (e.g., 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.

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:

- submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's employment or education; or
- submission to or rejection of such conduct is used as a basis for employment or educational decisions affecting an individual; or
- 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.

Sexual harassment includes sexual assault. For purposes of this policy, sexual assault means a physical sexual act perpetrated against a person's will or where the person is incapable of giving consent (e.g., due to drugs, alcohol, intellectual or other disability). For additional information on the University's response to sexual assault, refer to section 18 of the Clery Report found at

<http://www.loyola.edu/departments/publicsafety/reporting/annual-security-report>.

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.

In considering a complaint under this policy, the following understandings shall apply:

- 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.
- 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.

The following behaviors are also prohibited by this policy:

Domestic Violence

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse

of the victim under the domestic or family violence laws of Maryland, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic violence laws of Maryland.

Dating Violence

Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Stalking

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

Retaliation

It is a violation of Loyola's harassment and discrimination policy to retaliate against any person for making an allegation or participating in an investigation of an alleged violation of this policy. 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. The University reserves the right to take immediate measures to prevent violations pending the outcome of any proceedings under this policy.

Knowingly Filing False Complaints

Knowingly filing a false complaint of harassment, discrimination, retaliation, domestic violence, dating violence, or stalking is a violation of this policy. Employees who knowingly file a false complaint are subject to disciplinary action.

Intentional Breaches of Confidentiality

Participants in this process, including the complainant and respondent, witnesses, investigators, supervisors/department chairs or their designees, and University officers may be directed to maintain appropriate confidentiality regarding the proceedings in order to protect the integrity of the investigation, to protect the privacy rights of the individuals involved, or for other valid reasons, provided that a complainant or respondent may not be required to maintain confidentiality as to the outcome of the investigation. 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 procedures set forth below. 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.

This policy, the following Procedures for Resolution of Complaints, and the Community Standards are only part of Loyola's effort to prevent discrimination and harassment, domestic violence, dating violence, and stalking in our community. In addition to spelling out steps for making and resolving complaints, the University is also committed to programs of education and prevention.

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.

8.7 Procedures for Resolution of Complaints

Introduction

The following Procedures provide for prompt, fair and impartial investigation and resolution of all reports of harassment and discrimination, domestic violence, dating violence, and stalking in the same way as other misconduct issues, whether or not a formal or informal complaint has been made by one or more individuals. Investigations will be conducted by officials who have received annual training on the issues related to harassment, discrimination, domestic violence, dating violence, and stalking and on how to conduct an investigation that protects the safety of victims and promotes accountability. Loyola will undertake immediate and appropriate corrective action whenever it determines that a violation of this policy has occurred.

The human resources office is responsible for investigating and managing the resolution of complaints under this policy. The assistant vice president for human resources or designee investigates and manages these proceedings in most cases.

Other University personnel are also available to provide consultation and assistance regarding complaints. Supervisors/department chairs of employees and deans who work with faculty and students across the campus can also provide guidance about responding to situations that may violate this policy.

8.7.1 Informal Intervention

Any member of the Loyola community who believes that he or she has experienced harassment, discrimination, domestic violence, dating violence, or stalking in violation of this policy is encouraged to report the incident(s) as soon as possible. A complainant may end the informal stage at any time and may initiate a formal complaint.

8.7.2 Options for Informal Resolutions

Discuss the situation with the assistant vice president for human resources or other designated individuals who are available through the following offices:

Undergraduate Students:

Office of Student Development
Dean of First-Year Students and Academic Services
Dean of Loyola College
Dean of the School of Education
Dean of the Sellinger School of Business and Management
Assistant Vice President Student Development
Title IX Coordinator

Graduate and Professional Students:

Dean of Loyola College
Dean of the School of Education
Dean of the Sellinger School of Business and Management
Director of Graduate Admission
Associate Vice President Graduate Studies
Assistant Vice President and Director Athletics
Assistant Vice President Student Development
Title IX Coordinator

Faculty:

Human Resources Office
Office of the Vice President for Academic Affairs
Faculty Development Fellow - Academic Affairs
Deans

Title IX Coordinator

Staff and Administrators:
Human Resources Office
Division Vice Presidents
Title IX Coordinator

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. (Note: this option is not appropriate in cases of alleged sexual assault.)

Contact the supervisor/department chair or dean of the person whose behavior is disturbing and request assistance to stop the behavior.

For an informal interview, request assistance from the human resources office (ext. 2354).

8.7.3 Assistance with 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 this 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, and seek a commitment by the respondent to comply with these policies. In addition, appropriate disciplinary action may be taken, up to and including termination, depending on the nature and severity of the conduct and the respondent's overall work history.

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 an informal complaint was made and that actions were taken in response to the complaint.

NOTE: Some forms of behavior that are disturbing to members of the Loyola community may not meet the definitions of behavior prohibited by this policy. Such behavior may, nonetheless, be prohibited by other policies, rules, or procedures. Questions about handling complaints under any other policies and procedures may be directed to deans and to human resources staff.

8.7.4 Initiating a Formal Complaint

8.7.4.1 Timeframe for Filing

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

The 180-calendar-day 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 under other conduct processes.

8.7.4.2 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 violate this policy. 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 14 calendar days. Upon receipt of the respondent's answer to the complaint, the human resources office shall forward a copy of the response to the complainant.

8.7.4.3 Investigation

Within five working days of receiving a copy of the response to the complaint, a designee of the human resources office will initiate an investigation to determine whether there is a reasonable basis for believing that the alleged violation of the policy occurred. During the investigation, the investigator will interview the complainant, the respondent, and any witnesses who may have direct relevant information to determine whether the conduct occurred and whether such conduct violated this policy.

8.7.4.4 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 to a resolution of the complaint in writing. A resolution may include, but is not limited to, withdrawal of the complaint without the right to re-file 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.

8.7.4.5 Finding, Determination, and Sanction

If a settlement is not reached within 30 calendar days of this initial meeting, human resources shall make a written determination, using a "preponderance of evidence" standard, which includes a finding of whether the conduct alleged in the complaint occurred and whether such conduct violated this policy. The written determination will be completed within five working days of the end of the settlement period, unless new information is brought forward during the negotiation period that requires further investigation. If human resources determines that the respondent violated this policy, human resources shall consult with the appropriate responsible individual 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.

Human resources shall notify the complainant and the respondent simultaneously, in writing, of the

determination. If it is determined that the policy was violated, the notice will include the sanction to be imposed.

8.7.4.6 Responsible Official

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.

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/her designee. 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 Chairperson of the Board of Trustees.

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.

8.7.5 Appeals to the President

Within 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, to the president based on one or more of the following grounds:

- The determination is not supported by the evidence.
- Relevant new evidence that was not available for consideration prior to the determination has been discovered.
- The sanction is disproportionate to the offense.
- 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 30 days of receipt of the last-filed appeal, the president shall render a final decision simultaneously, in writing, to the complainant and the respondent.

8.8 Monitoring

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, and which of these cases, if any, reached mediated solutions.

The report shall also specify the number of cases in which human resources made findings of violations of this policy, the types of violations, 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.