

## **8.6 Harassment and Discrimination Policy and Procedures**

### *Policy*

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, stalking (whether or not based on a protected classification) and sexual exploitation are also addressed under this policy.

Discrimination, harassment, domestic violence, dating violence, stalking, sexual assault, and sexual exploitation are inconsistent with Loyola's commitment to excellence and respect for all individuals. Loyola is also 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.

### *Scope*

This policy prohibits discrimination, including harassment, domestic violence, dating violence, stalking, sexual assault, and sexual exploitation of students, employees, or program participants of Loyola University Maryland by anyone on University property or at University-sponsored activities. This policy applies to situations in which the person alleging a violation (the "complainant") or the person accused of a violation (the "respondent") is an employee, student, or program participant of Loyola University Maryland. 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.

Allegations against student employees in their capacity as employees are resolved through this policy by the director of student life and the director of employee engagement. Allegations against students in their capacity as students are resolved through the student conduct process rather than under this policy. The Community Standards can be found at <http://www.loyola.edu/departments/studentlife/studentconduct>.

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 other than on the basis of a protected classification is also prohibited by University policy and may be the subject of a complaint using the Grievance Policy and Hearing Procedures (Section 8.18 of the Staff and Administrator Policy Manual).

### *Compliance*

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, Associate 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 Katsura

Kurita, Assistant Vice President for Student Development, 4501 N. Charles Street, Baltimore, Maryland, 21210, Phone: 410-617-5646, [Email: kkurita@loyola.edu](mailto:kkurita@loyola.edu).

Complaints may also be filed with the U.S. Department of Education, Office of Civil Rights ([www.ed.gov](http://www.ed.gov)).

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, stalking, sexual assault, and sexual exploitation 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.

### *Definitions*

**Dating violence** encompasses a broad range of behaviors, including sexual assault, physical abuse, and other forms of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant 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.

**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.

**Harassment** means unwelcome verbal, written or physical conduct based on a protected classification (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) 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 assault** includes any sexual act or sexual contact without consent, including intercourse; oral sex; unwanted touching of an intimate body part of another person such as sexual organs, buttocks, or breasts; or an attempt of any of the above. Rape is a type of sexual assault. For purposes of this definition, "consent" means an affirmative indication by words and/or actions of a voluntary agreement to engage in the particular sexual act or conduct in question. Consent for one sexual act or conduct does not constitute consent to all sexual acts or conduct. Consent can be withdrawn at any time, and once withdrawal of consent has been expressed, sexual activity must cease. Consent cannot be obtained through the use of force, threat, intimidation, or coercion. Consent cannot be given by someone who is not able to effectively communicate or to understand the nature of the conduct being engaged in as a result of incapacitation due to consuming drugs or alcohol or for any other reason (including but not limited to being unconscious, asleep, or otherwise unaware that sexual activity is occurring). Incapacitation may also exist because of a physical, mental or developmental disability. Silence or absence of resistance on the part of an individual does not constitute his or her consent. For more information on the University's response to sexual assault, refer to the Annual Security Report found at <http://www.loyola.edu/departments/publicsafety/reporting/annual-security-report>.

**Sexual exploitation** means taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being

exploited. Examples include but are not limited to non-consensual photography, video-, or audio-recording of sexual images or activity, distributing images of sexual activity without consent, allowing others to observe a consensual sexual act without the prior knowledge or consent of all involved parties, and voyeurism.

**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 misconduct** includes sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence, and stalking. Additional procedures and information specifically related to sexual misconduct are outlined below in Section 8.8.

**Stalking** includes 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, or sexual misconduct 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 and any directions regarding confidentiality shall not impede the parties' ability to obtain and present evidence or otherwise support or defend their interests. Any questions regarding confidentiality 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.

## **8.7 Procedures for Resolution of Complaints (Harassment, Discrimination and Sexual Misconduct)**

### *Introduction*

The following Procedures provide for prompt, fair and impartial investigation and resolution of all reports of harassment and discrimination, sexual assault, domestic violence, dating violence, stalking or sexual exploitation within the scope of this policy, whether or not a formal or informal complaint has been made. Investigations will be conducted by officials who have received appropriate annual. Loyola will undertake immediate and appropriate corrective action whenever it determines that a violation of this policy has occurred.

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.
- The conduct alleged to violate this policy should be evaluated from both the complainant's and respondent's perspectives, but also the perspective of a reasonable person similarly situated to the complainant and respondent considering all the circumstances.
- 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.

### **8.7.1 Informal Intervention**

Any member of the Loyola community who believes that he or she has experienced harassment, discrimination, sexual assault, domestic violence, dating violence, stalking, or sexual exploitation 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 associate vice president for human resources or other designated individuals who are available through the following offices:

#### Undergraduate Students:

Office of Student Development

Dean of Admission

Dean of Undergraduate and Graduate Studies

Dean of Loyola College

Dean of the School of Education

Dean of the Sellinger School of Business and Management

Associate Vice President for Academic Student Affairs

Assistant Vice President Student Development and Title IX Deputy Coordinator

Associate Vice President Human Resources and 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  
Dean of Undergraduate and Graduate Studies Executive  
Director of Graduate Admission  
Assistant Vice President and Director Athletics  
Assistant Vice President Student Development and Title IX Deputy Coordinator  
Associate Vice President Human Resources and Title IX Coordinator

Faculty:

Human Resources Office  
Office of the Provost and Vice President for Academic Affairs  
Associate Vice President for Academic Affairs and Diversity  
Deans  
Associate Vice President Human Resources and Title IX Coordinator  
Title IX Deputy Coordinator for Faculty, Staff and Administrators

Staff and Administrators:

Human Resources Office  
Division Vice Presidents  
Associate Vice President Human Resources and Title IX Coordinator  
Title IX Deputy Coordinator for Faculty, Staff and Administrators

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).

The University also has anonymous reporting methods:

- Silent Witness Form, found at <http://www.loyola.edu/department/publicsafety/silent-witness-form>
- EthicsPoint, found at <https://secure.ethicspoint.com/domain/media/en/gui/18799/index.html>
- Bias Related Behaviors Report, found at [www.loyola.edu/reportbias](http://www.loyola.edu/reportbias)

### **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. In such cases, the complainant should contact the Title IX Coordinator to discuss options. Although such a complaint generally would not be pursued under the formal complaint procedures, there may still be options for responding to such complaints; for example, 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, who has received appropriate training, 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. Both parties will have an opportunity to provide evidence and to request that the investigator interview specific witnesses. (In cases of alleged sexual assault, dating violence, domestic violence, and stalking, both the complainant and the respondent shall have the same opportunities to be accompanied to any meeting or disciplinary proceeding by an advisor of their choice.) In appropriate cases, including sexual misconduct investigations, interim measures may be put in place such as no contact orders, changes to work schedules/situations, interim suspension for the respondent, and other measures for safety as necessary.

### **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; provided, however, that the parties will not be requested or permitted to meet together in sexual misconduct cases.

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: mandatory assessment and compliance with treatment recommendations; prohibition of the respondent from participating in grading, honors, recommendations, reappointment and promotion decisions, or other evaluations of the complainant; written warning, 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 disciplinary probation, 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(s) 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 provosts and 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**

*[Note: In accordance with the Scope of this Policy, this appeals procedure does not apply to allegations against students that are resolved through the student conduct process.]*

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. Sexual Misconduct (Reporting)**

If you believe that you have been the victim of sexual misconduct on University property, at a University-sponsored event regardless of location, or in the administration of any of Loyola's educational programs or activities, you are encouraged to report the incident to one of the following individuals:

Title IX Coordinator for the University:  
Kathleen Parnell, Associate Vice President for Human Resources  
5000 York Road  
410-617-1350  
[kmparnell@loyola.edu](mailto:kmparnell@loyola.edu)

Title IX Deputy for Students:  
Katsura Kurita, Assistant Vice President for Student Development  
110 Jenkins Hall  
410-617-5646 (direct)  
410-617-5171 (main)  
[kkurita@loyola.edu](mailto:kkurita@loyola.edu)

Title IX Deputy for Faculty, Staff and Administrators  
Karen Feeley, Director Employee Engagement  
5000 York Road  
410-617-1345  
[kafeeley@loyola.edu](mailto:kafeeley@loyola.edu)

Title IX Deputy for Public Safety and Crimes:  
Rufus Dawson  
Associate Director Public Safety  
5104 York Road  
410-617-5284  
[rdawson@loyola.edu](mailto:rdawson@loyola.edu)

Reports of sexual misconduct also can be made to any "responsible employee" defined as any University administrator, staff with supervisory responsibilities, faculty member, campus police, student development employee, human resources employee, athletic coach, athletic trainer, or resident assistant. Campus Police and the student life on-call staff can be reached at 410-617-5010.



You will be asked to provide a statement to the University investigator(s). It is important to give as much information as possible because your statement will serve as the basis for further investigation of any case and any resulting proceedings. You will be provided with a written explanation of your rights and options including procedures victims should follow, information as to how Loyola University Maryland will protect confidentiality of victims and other necessary parties, notification about services available for victims within the University and in the community, options for available assistance and interim measures, and an explanation of the procedures for University disciplinary action. If you or any witness reports sexual misconduct, you will not be subject to disciplinary action for your own personal involvement with alcohol and/or other drugs at or near the time of the incident, unless the involvement was reasonably likely to place the health or safety or another individual at risk. In such cases, the University may initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

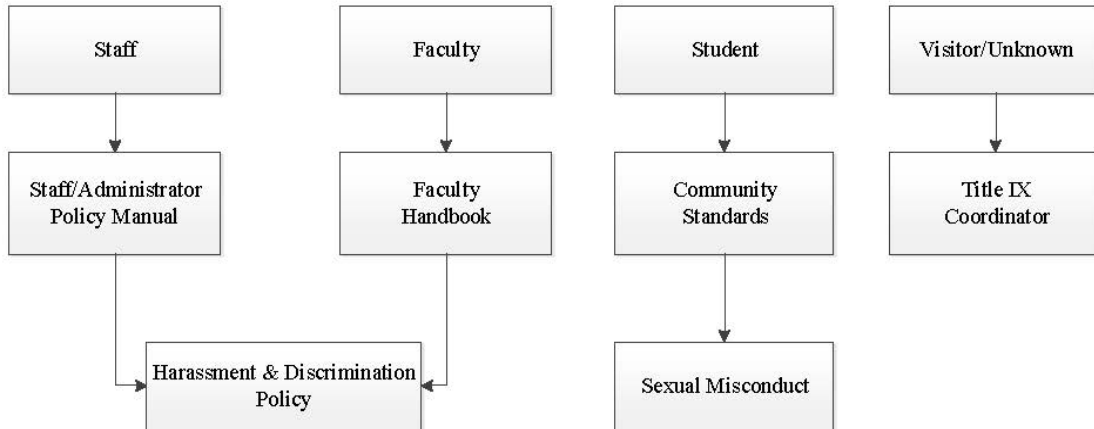
The University encourages any individual who has been a victim of domestic violence, dating violence, sexual assault, or stalking to report the incident to the Baltimore City Police. If you have been a victim of a crime, you have the right to file criminal charges with the appropriate law enforcement official. The director of public safety or his/her designee can assist the victim in contacting the appropriate law enforcement officials and in working with these officials to pursue criminal charges against the alleged offender. Victims also have the option to decline to notify law enforcement authorities. Protective orders and peace orders may be sought through the court system. Baltimore City Police can be reached by calling 911.

Reports made to a licensed counselor, clergy acting in their pastoral role, a treating health care provider or the Sexual Violence Prevention, Education, and Response Coordinator are confidential and will not be reported for investigation without your permission unless an imminent threat exists. For students, Melissa Lees, the Sexual Violence Prevention, Education, and Response Coordinator, can be reached at 410-617-6769. Loyola's Counseling Center can be reached at 410-617-2273 and the Student Health Center can be reached at 410-617-5055. If you would like to seek counseling assistance off campus, you may contact TurnAround 24 hours a day at 443-279-0379, House of Ruth 24 hours a day at 410-889-7884, or the Sexual Assault /Domestic Violence 24-hour hotline for Baltimore and Carroll Counties at 410-828-6390.

Individuals are encouraged to seek medical assistance in cases of sexual misconduct. Upon request, campus police will provide transportation to Mercy Hospital, designated as one of the city's rape treatment centers. This hospital is equipped to perform the Sexual Assault Forensics Exam (SAFE) and provide victim services. It is important to preserve evidence for proof of a criminal offense if charges may be filed.

Interim measures may be appropriate in cases of sexual misconduct. These interim measures may include but are not limited to: no contact orders, new housing assignments, changes to class schedules, assistance with rescheduling academic assignments (paper, exam, etc.), tutoring support, changes to work schedules/situations, transportation assistance and escorts to and from campus locations, interim suspension for the respondent, and other measures for safety as necessary.

*If the accused is a:*



### *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.