

LOYOLA UNIVERSITY NEW ORLEANS DISCRIMINATION AND HARASSMENT POLICY

Approved by the Board of Trustees May 17, 2012

PURPOSE:

Loyola University New Orleans strives to create and maintain a working and learning environment in which individuals 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 discrimination or harassment of any kind. Through implementation and enforcement of this policy, and through education of faculty, staff, and students, Loyola seeks to discourage, prevent, correct and when necessary sanction behavior that violates Loyola's policy on discrimination and harassment.

1. IN GENERAL

a. Applicability and Sanctions for Policy Violations – This policy applies to all students, faculty and staff of Loyola University New Orleans, as well as others who participate in Loyola programs and activities. Its application includes Loyola programs and activities both on and off-campus, including overseas programs. Individuals who violate this policy are subject to discipline up to and including discharge, expulsion and/or other appropriate sanction or action.

b. Prompt Attention – Reports of discrimination and harassment are taken seriously and will be dealt with promptly.

2. WHAT IS PROHIBITED?

a. The University's sexual harassment policy is designed to apply to employment and academic relationships among administrators, faculty, staff and students, and prohibits male-to-female, female-to-male, faculty-to-student, and same sex harassment.

b. 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, sexual orientation, genetic information, marital status, citizenship status, or any other characteristic, unless required by law.

c. Discrimination on the basis of race, color, sex, national origin, age, religion, disability status, military/veteran status, sexual orientation, genetic information, marital status, citizenship status, or any other characteristic is prohibited by a variety of federal, state and local laws, including Title VI and Title VII of the Civil Rights Act of 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 statutes.

d. It is a violation of this policy to harass individuals in the provision of employment or educational opportunities. In general, harassment is defined as verbal and/or physical conduct that threatens, intimidates, coerces and creates a hostile environment on the basis of the prohibited classifications (the person's race, color, sex, national origin, age, religion, disability status, military/veteran status, sexual orientation, genetic information, marital status, citizenship status, or any other characteristic).

3. WHAT TO DO ABOUT DISCRIMINATION AND HARASSMENT

Students, staff and faculty should use the same resources, processes and procedural protections described in Loyola's policy on Discrimination and Harassment.

4. POLICY REVIEW AND EVALUATION

This policy replaces the policy previously adopted on August 1, 2004, and revised April 23, 2010, and is effective on May 17, 2012. It is subject to periodic review by the Diversity Committee and the Office of General Counsel. Any comments or suggestions should be forwarded to the chair of the Diversity Committee or the Office of General Counsel.

Discrimination and Harassment Policy

1. IN GENERAL

- a. **Applicability**— This policy applies to all students, faculty and staff of Loyola University New Orleans, as well as others who participate in Loyola programs and activities. Its application includes Loyola programs and activities both on and off-campus, including overseas programs.
- b. **Respect for Each Other** — Loyola University New Orleans strives to provide a place of work and study free of discrimination and sexual harassment, intimidation or exploitation. It is expected that students, faculty, staff and other individuals covered by this policy will treat one another with respect.
- c. **Diversity**- The University acknowledges everyone’s differences such as individuals from different races, gender, sexual orientation, mental/physical ability, culture, background, experiences, etc. All students, faculty, staff and other individuals covered by this policy are responsible for promoting an environment of inclusion.
- d. **Prompt Attention** — Reports of sexual harassment are taken seriously and will be dealt with promptly. The specific action taken in any particular case depends on the nature and gravity of the conduct reported and may include intervention, mediation, investigation and the initiation of complaint and disciplinary processes. Where discrimination and sexual harassment has occurred, the University will act to stop the harassment, prevent its recurrence, and discipline and/or take other appropriate action against those responsible.
- e. **Confidentiality** — The University recognizes the importance of confidentiality. Those responsible for implementing this policy will respect the confidentiality and privacy of individuals reporting or accused of discrimination or sexual harassment *to the extent reasonably possible*. Examples of situations where confidentiality cannot be maintained include circumstances when the law requires disclosure of information and/or when disclosure required by the University outweighs protecting the rights of others. In all cases, the issues of confidentiality must be balanced with the University’s need to investigate and take appropriate action.
- f. **Sanctions for Policy Violations**- Individuals who violate this policy are subject to discipline up to and including termination, expulsion and/or other appropriate sanction or action.
- g. **Protection Against Retaliation** — Retaliation and/or reprisals against an individual who in good faith reports or provides information about behavior that

may violate this policy are against the law and will not be tolerated. However, intentionally making a false report or providing false information is grounds for discipline.

- h. Prevention-** Loyola prohibits all unprofessional behaviors that may be perceived as discrimination or sexual harassment, including behavior that may not meet the legal definition of unlawful discrimination or sexual harassment.
- i. Relationship to Freedom of Expression** — Loyola is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental to the University, and this policy is not intended to stifle teaching methods or freedom of expression generally, nor will it be permitted to do so. However, discrimination or sexual harassment is neither legally protected expression nor the proper exercise of academic freedom. It compromises the integrity of the University, its tradition of intellectual freedom and the trust placed in its members.
- j. Required Training** — In compliance with Loyola policy, all employees are required to participate in sexual harassment training at least every two years.

2. DEFINITIONS

Sexual Harassment

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

- a.** It is implicitly or explicitly suggested that submission to or rejection of the conduct will be a factor in academic or employment decisions or evaluations, or permission to participate in a University activity, **OR**
- b.** The conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating or hostile academic, work or student living environment.

Determining what constitutes sexual harassment depends on the specific facts and context in which the conduct of a sexual nature occurs. Sexual harassment may take many forms—subtle and indirect or blatant and overt. For example, it may:

- Be conduct toward an individual of the opposite sex or the same sex.
- Occur between peers or between individuals in a hierarchical relationship.

- Be aimed at coercing an individual to participate in an unwanted sexual relationship or it may have the effect of causing an individual to change behavior or work performance.
- Consist of repeated actions or may even arise from a single incident if sufficiently egregious.

There are three (3) types of sexual harassment:

- 1.) Quid pro quo- 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.

- 2.) Hostile work or learning environment- where the harassment creates an offensive and unpleasant working or learning environment.
- 3.) Third party harassment- when a party or parties are not sexually harassed directly, but suffer the consequences of sexual harassment.

Sexual Assault

The University's Sexual Assault Program

(<http://finance.loyno.edu/police/campus-sexual-assault-program>) may also apply when sexual harassment involves physical contact. In addition, there are options for students

(<http://studentaffairs.loyno.edu/sites/studentaffairs.loyno.edu/files/Loyola-University-New-Orleans-Options-After-Sexual-Assault.pdf>).

Discriminatory Harassment

Discriminatory harassment is defined as verbal or physical conduct directed toward an individual solely because of his or her gender, race, nationality, religion, creed, age, disability, citizenship and/or presumed or actual sexual orientation that (a) stigmatizes the individual as known by the speaker to invoke violence or imminent harm, or (b) is of a continual nature such that it creates an intimidating, hostile or offensive working, academic or campus environment or (c) unreasonable interference with an individual's work or academic performance.

Diversity

Loyola is committed to providing a diverse academic atmosphere. This idea is rooted in the belief that diversity enriches our social interactions and intellectual lives by exposing us to different cultures, ideas, and ethnicities. Recognizing the role which diversity plays in our mission, Loyola strives to maintain an educational community that is safe, welcoming, and inclusive for all of its faculty, staff, and students.

3. WHAT ACTIONS CONSTITUTE SEXUAL HARASSMENT?

You have a right to work, learn and live in an environment free from sexual harassment. The following are some examples of conduct, particularly unwelcome, which may constitute sexual harassment:

- Direct proposition of a sexual nature and/or subtle pressure for sexual activity that is unwanted and unreasonably interferes with a person's work or academic environment
- Gender harassment, including sexist statements and behavior that convey insulting, degrading, or sexist attitudes
- Persistent and unwanted request for dates, unwelcome and inappropriate letters, telephone calls, email, or other communication or gifts
- Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation
- Subtle or overt pressure for sexual favors
- Unwanted physical contact such as touching, hugging, brushing against a person's body, impeding or blocking movements
- Sexually explicit statements, questions, jokes, or anecdotes regardless of the means of communication (oral, written, email, text messages, etc.)
- The display of inappropriate sexually oriented materials Sexual Assault, attempted rape, or rape (*See sexual assault section*)

4. WHERE TO REPORT A DISCRIMINATION OR SEXUAL HARASSMENT COMPLAINT

The following are the primary methods for reporting discrimination or sexual harassment at Loyola. There is no requirement to follow them in any specific order. However, early informal methods are often effective in correcting questionable behavior.

If you feel comfortable enough, you may speak with the person, inform him/her of the unwelcome behavior and ask that the behavior stop immediately. Document the incident and the steps taken to resolve it.

If you feel uncomfortable speaking with the person engaged in the unwelcome behavior, or if you are unsure about your concerns and have questions, you may discuss your concerns with, and address your questions to, one of the advisors trained by Loyola University New Orleans Compliance Officer. A list of those advisors may be found at the following link <http://president.loyno.edu/general-counsel>.

To file a discrimination or sexual harassment complaint, the complainant should contact the Office of Compliance, Marquette Hall, Suite 250, Ph. 504.865.2657.

Individuals seeking further information may also visit the following:

- The Human Resources Department, Mercy Hall, Suite 102, Ph. 861-7757
- University Counseling Center (UCC), Danna Student Center, Suite 205, Ph.865-3835

Individuals seeking further information regarding sexual assault may visit the following:

- Sexual Assault Advocacy Initiative or Advocates,
<http://studentaffairs.loyno.edu/counseling/sexual-assault-victims-advocate-list-1st-responders-5> (See section on sexual assault)

a. Formal Complaint, Investigations, Appeal and Disciplinary Processes – Complaint, appeal or disciplinary processes may be pursued as applicable.

(1) Complaints, Investigations, and Appeals – The applicable procedure depends on the circumstances and the status of the person bringing the charge and the person against whom the charge is brought. Generally, the process consists of the individual's submission of a written statement, of fact-finding process or investigation by a University representative, followed by a decision and, in some cases, the possibility of one or more appeals, pursuant to the faculty appellate process, the human resources operating manual or the student code of conduct. The relevant procedure (see below) should be read carefully, since the procedures vary considerably.

If the identified University fact-finder has a conflict of interest, an alternate will be arranged. The compliance officer (CO) can help assure that this occurs.

In most cases, complaints and appeals must be brought within a specified time after the action in question. While informal resolution efforts will not automatically extend the time limits for filing a complaint or appeal, in appropriate circumstances the complainant and the other relevant parties may mutually agree in writing to extend the time for filing a complaint or appeal.

A list of the established complaint and appeal procedures are located online or from the CO.

- For staff dispute resolution policy and procedures, see Chapter Five of the Human Resources Policies, Procedures and Benefits at <http://finance.loyno.edu/human-resources/policies-procedures-benefits-manual>
- For Faculty refer to the Faculty Handbook, Chapter 1 at http://academicaffairs.loyno.edu/sites/academicaffairs.loyno.edu/files/CH-1-Final-Version_3.pdf
- For students refer to the Student Code of Conduct, Chapter 5 at <http://studentaffairs.loyno.edu/sites/studentaffairs.loyno.edu/files/Section%204%20Discipline%20Policies%20and%20Procedures.pdf>

- (2) **Disciplinary Procedures** – In appropriate cases, disciplinary procedures may be initiated. The applicable disciplinary procedure depends on the status of the individual whose conduct is in question. For example, faculty is subject to the Faculty Handbook at <http://academicaffairs.loyno.edu/faculty-handbook> and students to the Student Code of Conduct at <http://studentaffairs.loyno.edu/student-handbook>. For additional information related to student judicial affairs, see <http://studentaffairs.loyno.edu/sites/studentaffairs.loyno.edu/files/Section%204%20Discipline%20Policies%20and%20Procedures.pdf>. Staff members are subject to the Human Resources Policies and Procedures Manual at <http://finance.loyno.edu/human-resources/policies-procedures-benefits-manual>.

The individuals referenced in this section are available to discuss these options and other methods for dealing with discrimination and sexual harassment.

5. PROCEDURAL MATTERS

- a. **Investigations** – If significant facts are contested, an investigation may be undertaken. The investigation will be conducted in a way that respects, to the extent possible, the privacy of all of persons involved. In appropriate cases,

professional investigators may be asked to assist in the investigation. The results of the investigation may be used in the third party intervention process or in a complaint or disciplinary action. The CO will oversee all investigations. Investigations involving faculty members will be conducted by the Office of the Provost with the support of the CO.

- b. Recordkeeping** – The CO will track reports of discrimination and sexual harassment for statistical purposes and report at least annually concerning their number, nature and disposition to the University President.

The CO may keep confidential records of reports of sexual harassment and the actions taken in response to those reports, and use them for purposes such as to identify individuals or departments likely to benefit from training so that training priorities can be established.

- c. Indemnification and Costs** – The question sometimes arises as to whether the University will defend and indemnify a Loyola employee accused of discrimination or sexual harassment. The issue of indemnification depends on the facts and circumstances of each situation.

6. SEXUAL ASSAULT CASES

Students who are survivors of sexual assault are highly encouraged to contact University police. Reporting an assault to the University police does not require filing criminal charges; however, it does allow the University to assist and support the survivor. Sexual assault is an egregious form of sexual harassment and it is a crime. The University takes all incidents seriously. The University supports the right of the survivor of a sexual assault to decide how best to utilize various University, community, private and public support systems designated to address crimes of sexual assault.

Within the University, instances of sexual assault should be reported to:

Loyola University Police Department: 504.865.3434

7. CONSEQUENCES OF DISCRIMINATION OR SEXUAL HARASSMENT

These forms of harassment have adverse effects on the victim. The student, faculty or employee may suffer a diminished ability to work and/or study, which may have a lasting career impact or a loss of confidence in the University's ability to provide a comfortable and safe environment for work and learning. A student's educational goals may also be significantly affected if the student decides to avoid certain courses, change his or her area of study, or transfer to another institution.

In addition, these forms of harassment impacts the University and the department(s) involved. The University and the department(s) may experience

an atmosphere of fear, intimidation, declining work productivity and office morale.

A person found responsible for discrimination or sexual harassment may face:

- Student disciplinary action
- Letter of reprimand
- Denial of promotion
- Demotion
- Suspension
- Termination

8. DUTY TO REPORT

Managers, supervisors, faculty and other agents of the University have a duty to report any known or alleged incidents of sexual harassment.

9. RESOURCES FOR DEALING WITH SEXUAL HARASSMENT

External Reporting – Discrimination and sexual harassment are prohibited by state and federal law. In addition to the internal resources just described, individuals may pursue complaints directly with the government agencies that deal with unlawful harassment and discrimination claims, e.g., the U.S. Equal Employment Opportunity Commission (EEOC) at <http://www.eeoc.gov/field/neworleans/index.cfm>, the Office for Civil Rights (OCR) of the U.S. Department of Education at <http://www2.ed.gov/about/offices/list/ocr/index.html>, and the Louisiana Commission on Human Rights at <http://gov.louisiana.gov/HumanRights/humanrightshome.htm>. These agencies are also listed in the Government section of the telephone book. A violation of this policy may exist even where the conduct in question does not violate the law.

10. POLICY REVIEW AND EVALUATION

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